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Abcor Inc, Wilmington, MA Walden Div

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Delaware

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This document has been produced in compliance with Section 110(h)(1) of the Clean Air Act amendments of 1977. The Federally enforceable regulations contained in the State Implementation Plans (SIPs) have been compiled for all 56 States and territories (with the exception of the Northern Mariana Islands). They consist of both the Federally approved State and/or local air quality regulations as indicated in the Federal Register and the Federally promulgated regulations for the State, as indicated in the Federal Register. Regulations which fall into one of the above categories as of January 1, 1978, have been incorporated. As mandated by Congress, this document will be updated annually. State and/or local air quality regulations which have not been Federally approved as of January 1, 1978, are not included here; omission of these regulations from this document in no way affects the ability of the respective Federal, State, or local agencies to enforce such regulations.

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Delaware

by

Walden Division of Abcor, Inc.
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Contract No. 68-02-2890

EPA Project Officer: Bob Schell

Prepared for

U.S. ENVIRONMENTAL PROTECTION AGENCY
Office of Air, Noise, and Radiation
Office of Air Quality Planning and Standards
Research Triangle Park, North Carolina 27711

August 1978

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Publication No. EPA-450/3-78-057

INTRODUCTION

This document has been produced in compliance with Section 110(h)(1) of the Clean Air Act Amendments of 1977. The Federally enforceable regulations contained in the State Implementation Plans (SIPs) have been compiled for all 56 States and territories (with the exception of the Northern Mariana Islands). They consist of both the Federally approved State and/or local air quality regulations as indicated in the Federal Register and the Federally promulgated regulations for the State, as indicated in the Federal Register. Regulations which fall into one of the above categories as of January 1, 1978, have been incorporated. As mandated by Congress, this document will be updated annually. State and/or local air quality regulations which have not been Federally approved as of January 1, 1978, are not included here; omission of these regulations from this document in no way affects the ability of the respective Federal, State, or local agencies to enforce such regulations.

There have been recent changes in the Federal enforceability of parking management regulations and indirect source regulations. The October, 1977, appropriation bill for EPA prohibited Federal enforcement of parking management regulations in the absence of specific Federal authorizing legislation. Federally promulgated parking management regulations have, therefore, been suspended indefinitely. Pursuant to the 1977 Clean Air Act Amendments, indirect source regulations may not be required for the approval of a given SIP. Consequently, any State adopted indirect source regulations may be suspended or revoked; State adopted indirect source regulations contained in an applicable SIP are Federally enforceable. More importantly, EPA may only promulgate indirect source review regulations which are specific to Federally funded, operated, or owned facilities or projects. Therefore, the Federally promulgated indirect source regulations appearing in this document are not enforceable by EPA except as they relate to Federal facilities.

Since State air quality regulations vary widely in their organization, content, and language, a standardized subject index is utilized in this document. Index listings consist of both contaminant and activity oriented categories to facilitate usage. For example, for regulations which apply to copper smelters, one might look under sulfur compounds (50.2), particulate matter process weight (50.1.1), or copper smelters (51.15). Federal regulations pertaining to a given State immediately follow the approved State and local regulations.

Additionally, a summary sheet of the information included in each comprehensive document is presented prior to the regulatory text to allow one to quickly assess the contents of the document. Specifically, the summary sheets contain the date of submittal to EPA of each revision

to the SIP and the date of the Federal Register in which the revision was either approved or disapproved by EPA. Finally, a brief description or reference of the regulation which was submitted is also included.

This document is not intended to provide a tool for determining the enforceability of any given regulation. As stated above, it is intended to provide a comprehensive compilation of those regulations which are incorporated directly or by reference into Title 40, Part 52, of the Code of Federal Regulations. Consequently, the exclusion of a Federally approved regulation from this document does not diminish the enforceability of the regulation. Similarly, the inclusion of a given regulation (for example, regulations governing pollutants, such as odors, for which there is no national ambient air quality standards) in this document does not, in itself, render the regulation enforceable.

SUMMARY SHEET

OF

EPA-APPROVED REGULATION CHANGES

DELAWARE

Submittal Date	Approval Date	Description
1/16/75	3/23/76	I-XIX Revised

FEDERAL REGULATIONS

Section Number	Description
52.426	Review of New or Modified Indirect Sources
52.432	Prevention of Significant Deterioration

DOCUMENTATION OF CURRENT EPA-APPROVED
STATE AIR POLLUTION REGULATIONS

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REGULATION NO. I

(1.0)
(2.0) DEFINITIONS AND ADMINISTRATIVE PRINCIPLES

(2.0) Section 1 - General Provisions

1.1 The words and phrases defined and the administrative principles presented in this regulation shall apply to all regulations, unless the context clearly indicates otherwise.

(1.0) Section 2 - Definitions

2.01 ACT: Title 7, Delaware Code, Chapter 60, entitled Division of Environmental Control.

2.02 ACTIVITY: Construction, or operation, or use of any facility, property, or device.

2.03 ACTUAL OPERATING CONDITIONS: Any conditions or operating parameters, or the quantities representing these conditions or parameters, which exist during any operation.

2.04 AIR CONTAMINANT: Particulate matter, dust, fumes, gas, mist, smoke, or vapor or any combination thereof, exclusive of uncombined water.

2.05 AIR CONTAMINANT CONTROL DEVICE OR SYSTEM: Any method, process, equipment, or stack which removes, reduces, or renders less noxious air contaminants discharged into the atmosphere.

2.06 AIR CONTAMINANT SOURCE: Any source from which there is emitted into the atmosphere any air contaminant regardless of who owns the property or facility from which the emission comes. Without limiting the generality of the foregoing, this term includes all types of commercial and industrial plants and works, heating and power plants and stations, shops and stores; buildings and other structures of all types, including single and multiple family residences, apartment houses, office buildings, public buildings, hotels, restaurants, schools, hospitals, churches, and other institutional buildings, automobiles, trucks, tractors, buses and other motor vehicles (hereinafter called "motor vehicles"); garages, vending and service locations and stations; railroad locomotives; ships, boats and other waterborne craft; airborne craft; portable fuel-burning equipment; incinerators of all types; indoor and outdoor; and refuse dumps and piles.

2.07 AIR POLLUTION: The presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life or to property or which unreasonably interferes with the enjoyment of life and property within the jurisdiction of this State, excluding all aspects of employer-employee relationships as to health and safety hazards.

2.08 AIR QUALITY CRITERIA: A series of observed relationships between air pollutants and their effects on health, welfare, vegetation, or property. Criteria for any given effect are expressed in terms of pollutant concentrations, duration of exposure and method of measurement.

2.09 AIR QUALITY STANDARD: An air quality level as established by Regulations in terms of a limit on contaminant levels in the atmosphere. Such standards shall be consistent with the air quality criteria.

2.10 AIR STAGNATION: A weather situation characterized by limited horizontal and vertical mixing.

2.11 AIR STAGNATION ADVISORY: The National Weather Service method of advising of the existence of air stagnation over a discrete area.

2.12 ALTERATION: Any physical change in, or change in the method of operation of, any air contaminant source which results in the addition of a new air contaminant or an increase in the quantity of one or more existing air contaminants, except for routine maintenance, repair and replacement.

2.13 AMBIENT AIR: Atmosphere.

2.14 ATMOSPHERE: The air that envelops or surrounds the earth and includes all spaces outside of buildings, stack or exterior ducts.

2.15 AUXILIARY BURNER: Equipment to supply additional heat, by the combustion of an auxiliary fuel, for the purpose of attaining temperatures sufficiently high (a) to dry and ignite waste material, (b) to maintain ignition thereof, and (c) to promote complete combustion of combustible solids, liquids, and gases.

2.16 AUXILIARY HEAT INPUT: The heat value of an auxiliary fuel provided to promote complete combustion.

2.17 BACKGROUND CONCENTRATION: The concentration of an air contaminant which is due to natural sources.

2.18 BOILER LANCING: The operation of removing soot, slag, and/or fly ash from the walls of the firebox, generating tubes, and other parts of fuel burning equipment.

2.19 BRITISH THERMAL UNIT: The quantity of heat required to raise the temperature of one pound of water one degree Fahrenheit at or near its point of maximum density (39.1°F), usually abbreviated BTU.

2.20 COMBUSTION CONTAMINANT: Any air contaminant discharged into the atmosphere by reason of a combustion operation.

2.21 COMBUSTION OPERATION: Any operation which causes or results in the burning of any type of material.

2.22 COMFORT HEATING EQUIPMENT: Fuel burning equipment designed to heat the interior of a building or dwelling for the sole purpose of providing comfort for the inhabitants of the structure.

2.23 COMFORT VENTILATING EQUIPMENT: Equipment producing an emission into the open air resulting from the cooling of the interior of a building or dwelling for the sole purpose of providing comfort for the inhabitants of the structure.

2.24 CONSTRUCTION, INSTALLATION OR ALTERATION PERMIT: Written notice that the construction, installation or alteration of an air contaminant source or control device has been approved by the Department.

2.25 CONTAMINATED WASTE: Waste having been exposed to, or potentially capable of spreading, a communicable disease.

2.26 DEPARTMENT: The Department of Natural Resources and Environmental Control as defined in Title 29, Delaware Code, Chapter 80 as amended.

2.27 DESULFURIZED FUEL GAS: A fuel gas with the sulfur content reduced to less than ten (10) grains of H_2S per one hundred (100) standard cubic feet of fuel gas.

2.28 DISTILLATE FUEL OIL: Any liquid fuel derived directly or indirectly as the distilled product of crude petroleum, and having a maximum Saybold Universal viscosity of forty (40) seconds at one hundred (100) degrees Fahrenheit.

2.29 DIVISION: The Division of Environmental Control

2.30 DOMESTIC BURNING: The open burning of leaves, tree branches, or yard trimmings, other than tree trunks and tree roots, originating on the premises and conducted by individuals domiciled on the premises; but excluding commercial operations.

2.31 EFFECTIVE STACK HEIGHT: The sum of the stack height and the rise of the stack gases above the stack due to the exit velocity and the temperature of the gases.

2.32 ENGINEERING GUIDE: A statement of guidelines, engineering factors to be considered, standards established, or general procedures to be followed in meeting the requirements of various regulations adopted by the Department.

2.33 EQUIPMENT START-UP: The process of bringing a unit of equipment on-line from an inoperative condition such that normal production rates are being achieved.

2.34 EXISTING INSTALLATION, EQUIPMENT, SOURCE, OR OPERATION: Any air contaminant source or control device under construction or in existence at the time of adoption of an applicable Regulation.

2.35 FLARE: An engineered device designed to burn waste gases from process operations or relief valves.

2.36 FLUE: See "STACK".

2.37 FLUE GAS: Products of combustion which are transported through a flue.

2.38 FLY ASH: Any particles of gas-borne solid matter resulting from the combustion of solid fuel but excluding process emissions.

2.39 FUEL: Any combustible matter including, but not limited to coal, gas, oil, and refuse.

2.40 FUEL BURNING EQUIPMENT: Any equipment used for the burning of fuel or other combustible material for the primary purpose of utilizing the thermal energy released.

2.41 GARBAGE: Animal or vegetable waste matter originating in houses, kitchens, restaurants, hotels, produce markets or similar installations.

2.42 HAZARDOUS PARTICULATE MATTER: Particulate matter which poses special health hazards due to chemical or biological reactivity or particle size.

2.43 HEAT INPUT: The potential thermal energy resulting from the complete combustion of any fuel.

2.44 INCINERATION: The process of igniting and burning solid, semi-solid, liquid, or gaseous combustible waste to their products of combustion.

2.45 INCINERATOR: An engineered apparatus, and all appurtenances thereto, designed to reduce combustible solid, semi-solid, liquid, or gaseous waste by high temperature burning. Incinerators shall be classified in accordance with engineering guides and acceptable practices.

2.46 INDIRECT HEAT EXCHANGE: Transfer of thermal energy in such a manner that the material being heated is not contacted by and adds no substance to the products of combustion.

2.47 INDUSTRIAL WASTE: Any waste produced by a manufacturing process.

2.48 LINEAR EXTRAPOLATION: A technique for determining an unknown value lying numerically outside the range of a series of values which is in direct linear proportion to another series of known values by comparing the two series, utilizing the following equation:

$$\frac{x - a_3}{a_2 - a_3} = \frac{b_1 - b_3}{b_2 - b_3}$$

where: x = The unknown value;
a_2 = Any known value in the series containing the unknown value;
a_3 = Any known value, other than a_2 , in the series containing the unknown value;

b_1 = The value in the series of known values corresponding to x;
b_2 = The value in the series of known values corresponding to a_2 ;
b_3 = The value in the series of known values corresponding to a_3 .

2.49 LINEAR INTERPOLATION: A technique for determining an unknown value lying numerically inside the range of a series of values which is in direct linear proportion to another series of known values by comparing the two series, utilizing the equation set forth under Section 2.48 of this Regulation.

2.50 MANUFACTURING PROCESS: Any process principally operated for the purpose of producing any durable or consumable good or goods.

2.51 MASS EMISSION RATE: The weight of any air contaminant discharged per unit of time.

2.52 MATERIAL: Any gas, liquid, or solid or any combination thereof.

2.53 METROPOLITAN PHILADELPHIA INTERSTATE AIR QUALITY CONTROL REGION: A geographical region composed of Burlington, Camden, Gloucester, Mercer, and Salem Counties in the State of New Jersey; Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties in the State of Pennsylvania; and New Castle County in the State of Delaware.

2.54 NATIONAL AMBIENT AIR QUALITY STANDARDS: Those primary and secondary ambient air quality standards which are promulgated by the Administrator of the Federal Environmental Protection Agency.

2.55 NATIONAL WEATHER SERVICE: An agency of the United States Commerce Department charged with the responsibility of providing weather information and service to the public and to commercial aviation.

2.56 NATURAL SOURCE: Any air contaminant source which is not man-made.

2.57 NEW INSTALLATION, EQUIPMENT, SOURCE, OR OPERATION: Any air contaminant source or control device not under construction or in existence at the time of adoption of any applicable Regulation.

2.58 NITROGEN OXIDES: Nitric oxide (NO) or nitrogen dioxide (NO_2) or any combination thereof.

2.59 ODOR: That property of an air contaminant that affects the sense of smell.

2.60 OPACITY: That condition which renders material partially or wholly impervious to rays of light and causes a degree of obstruction to an observer's view.

2.61 OPEN AIR: See "ATMOSPHERE".

2.62 OPEN BURNING: Any fire which is not conducted in fuel burning or process equipment or an incinerator.

2.63 OPERATING PERMIT: Written notice that the operation of an air contaminant source or control device has been approved by the Department.

2.64 PATHOLOGICAL WASTE: Human and animal remains and wastes, consisting of carcasses, organs, and organic wastes from hospitals, laboratories, sewage treatment facilities and similar sources, consisting of up to 85% moisture and 5% incombustible solids.

2.65 PARTICULATE MATTER: Material, other than uncombined water, which is suspended in or discharged into the atmosphere as a liquid or solid.

2.66 PERSON: Any individual, firm, association, organization, partnership, business trust, corporation, company, contractor, supplier, installer, developer, user or owner, or any Federal, State or Local governmental agency or public district or any officer or employee thereof.

2.67 PRILLING OPERATION: Any solidification process which employs the mechanism of molten droplets in free fall through a heat exchange medium.

2.68 PRIMARY AMBIENT AIR QUALITY STANDARDS: Those ambient air quality standards which, in the judgment of the Department, are requisite to protect the public health and allow an adequate margin of safety.

2.69 PRIVATE DWELLING: A domestic residence housing no more than three (3) families and where no commercial or industrial activity is carried on.

2.70 PROCESS EMISSION: Discharge into the atmosphere of air contaminants resulting from a specific process or combination of processes.

2.71 PROCESS OPERATION: Any chemical, industrial, or manufacturing operation including, but not limited to, heat transfer, fluid flow, evaporation, humidification, absorption, extraction, distillation, drying, mixing, classification, sedimentation, decantation, filtration, crystallization, centrifugation, disintegration and material handling.

2.72 PROCESS WEIGHT RATE: A rate established as follows:

(a) For continuous or long-run steady-state source operations, the total process weight for the entire period of continuous operation or for a typical portion thereof, divided by the number of hours of such period or portion thereof.

(b) For cyclical or batch unit operations or unit processes, the total process weight for a period that covers a complete operation or an integral number of cycles, divided by the hours of actual process operation during such a period.

Where the nature of any process or operation or the design of any equipment is such as to permit more than one interpretation of this definition, the interpretation that results in the minimum value for allowable emission shall apply.

2.73 PROFESSIONAL ENGINEER: A person licensed to practice professional engineering in the State of Delaware or otherwise eligible to practice engineering within the State as determined by the Delaware Association of Professional engineers.

2.74 RECREATIONAL PURPOSES: Any purpose which, in the judgment of the Department, fulfills a physical or social need, including, but not limited to, camping, ceremonies, and religious rites.

2.75 REFUSE: Garbage, rubbish, or trade waste.

2.76 RINGELMANN SMOKE CHART: The chart published and described in the U.S. Bureau of Mines Information Circular 8333, or any chart, recorder, indicator, or device for the measurement of smoke density which is approved by the Department as the equivalent of said Ringelmann Scale.

2.77 RUBBISH: Waste solids not considered to be highly flammable or explosive, including but not necessarily limited to rags, clothes, leather, rubber, carpets, excelsior, paper, ashes, furniture, tin cans, glass, crockery or masonry.

2.78 SALVAGE OPERATION: Any business, trade or industry engaged entirely or partially in salvaging or reclaiming any product or material, including, but not necessarily limited to, metals, chemicals, motor vehicles, shipping containers or drums.

2.79 SANITARY LANDFILL: A method of disposing of refuse on land without creating nuisances or hazards to public health or safety by utilizing engineering principles to confine the refuse to the smallest practical area, to reduce it to the smallest volume, and to cover it with a layer of earth as frequently as may be required by the permit.

2.80 SCRUBBER: A gas washer or auxiliary equipment designed to remove contaminants in wet form from products of combustion or from process emissions.

2.81 SECONDARY AMBIENT AIR QUALITY STANDARDS: Those ambient air quality standards which, in the judgment of the Department, are requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of air contaminants in the ambient air.

2.82 SECONDARY METAL OPERATION: Operations involving or related to the refining of metal when such operations use a raw material other than the metal ore.

2.83 SETTLEABLE PARTICULATES: Particulate matter present in air or other gases which tend to settle out rather than remaining suspended.

2.84 SMOKE: Small gas-borne particles resulting from incomplete combustion, consisting predominantly of carbon and other combustible material.

2.85 SMOKE DETECTOR: A device using a light source and a light detector which can automatically measure and record the light obscuring power of smoke at a specific location in the flue or stack.

2.86 SOLID FUEL: A fuel which is fired as a solid, such as anthracite or semi-anthracite, bituminous or sub-bituminous coal, lignite, coke, wood, or any solid by-product of a manufacturing process that may be substituted for any of the above specifically mentioned fuels.

2.87 SOOT BLOWING: The operation of removing soot, slag and/or fly ash from the firebox walls or the tubes of fuel burning equipment by the use of compressed air, steam or water.

2.88 STACK: A flue, chimney, conduit or other device constructed for the purpose of discharging air contaminants into the atmosphere.

2.89 STACK HEIGHT: The vertical distance measured in feet between the point of discharge from a stack into the atmosphere and the land thereunder.

2.90 STANDARD CONDITIONS: A gas temperature of 21°C (70°F) and a gas pressure of one atmosphere (14.7 pounds per square inch absolute).

2.91 STATIONARY SOURCE: Any fixed building, structure, facility, installation, or equipment which emits or may emit any air contaminant.

2.92 SULFUR RECOVERY OPERATION: Any operation designed for the recovery of elemental sulfur.

2.93 SUSPENDED PARTICULATES: Particulate matter which remains suspended in ambient air.

2.94 TAIL GASES: Gases and vapors released into the atmosphere from an industrial process after all reaction and treatment has taken place.

2.95 TRADE WASTE: Any solid, liquid, or gaseous waste material or rubbish resulting from construction, building operations, or the prosecution of any business, trade or industry including, but not necessarily limited to, plastic products, cartons, paint, grease, oil and other petroleum products, chemicals or cinders.

2.96 VENT: See "STACK".

2.97 VISIBILITY METER: Any device used for the purpose of measuring, recording, or indicating the reflectance of or opacity to light of an air contaminant stream.

(2.0) Section 3 - Administrative Principles

3.1 In certain Regulations, air quality standards will be established. These standards shall not be interpreted to allow significant deterioration of existing air quality in any portion of the State; otherwise; they shall be paramount in matters pertaining to the control of air pollution throughout the State.

3.2 In addition to or supplemental to these air quality standards, certain emission requirements will be specified. Such emission requirements are selected as minimum controls necessary to ensure a reasonable quality of air throughout the State. Where it is established that these emission requirements are inadequate to attain or maintain the applicable air quality standard, the Department shall exercise its authority to require additional control measures.

3.3 The Department intends to have Regulations adopted governing the control of air pollution as rapidly as practicable. The lack of a Regulation governing an air contaminant or combination of air contaminants will not prevent the Department from taking any and all actions necessary to maintain a reasonable quality of air throughout the State.

3.4 If any part of these Regulations, or the application of any part thereof, is held invalid or unconstitutional, the application of such part to other persons or circumstances, and the remainder of these Regulations shall not be affected thereby and shall be deemed valid and effective.

3.5 The Department may enter into agreement(s) on a regional basis for the purpose of attaining air quality goals. Such interstate agreements shall facilitate the attainment and maintenance of air quality standards.

REGULATION NO. II

(3.0) REGISTRATION AND PERMITS

(2.0) Section 1 - General Provisions

1.1 The purpose of this Regulation is to describe the requirements to report and obtain approval of equipment which has the potential to discharge air contaminants into the atmosphere.

(3.0) Section 2 - Registration of Air Contaminant Sources

2.1 The Department may require the written registration of air contaminant sources when, in its opinion, such information is necessary for the conduct of work of the Department.

2.2 Registrations shall be made on forms furnished by the Department. The forms may require information concerning the unit of equipment covered by the registration, the kind or amount of contaminant emitted by the equipment or any additional information required by the Department for the purpose of enforcing the rules and regulations of the Department of any change in any item of information furnished in compliance with this subsection, other than change of ownership, within a reasonable time not exceeding 30 days after the change is made.

2.3 Registration shall be made by the owner or lessee of the equipment, or his agent. If the registrant is a corporation, the registration shall be made by one individual who is a member of the group. If the registrant is a corporation, the registration shall be made by an appropriate representative of the corporation.

2.4 Information obtained through the provisions of this Regulation shall be made available for public inspection at any Department office except where such information is of a confidential nature as defined in Title 7, Delaware Code, Section 6014.

(3.0) Section 3 - Construction, Installation, Alteration and Operation Permits

3.1 No person shall initiate construction, install, alter, or initiate operation of any equipment or facility or air contaminant control device which will emit an air contaminant prior to receiving approval of his application from the Department. In situations in which construction, installation, or alteration is proposed and operation of the equipment, facility, or air contaminant control device is to follow, only one application need be submitted. The application shall consist of a description of at least the following:

a. The equipment or apparatus covered by the application; and

b. Any equipment connected or attached to, or servicing or served by the unit of equipment or apparatus covered by the application; and

c. The plot plan, including the distance and height of building within a reasonable distance from the place where the equipment is or will be installed, if necessarily required by the Department; and

d. The proposed means for the prevention or control of the emissions or contaminant;

e. The chemical composition and amount of any trade waste to be produced as a result of the construction, installation, or alteration of any equipment or apparatus covered by this application;

f. Any additional information, evidence or documentation required by the Department to show what the proposed equipment or apparatus will do.

g. Methods and expected frequency of occurrence of the start-up and shut-down of the equipment, including projected effects of emissions to the atmosphere and on ambient air quality.

No approval to construct, install, alter, or initiate operation will be granted unless the applicant shows to the satisfaction of the Department that the source will not prevent or interfere with attainment or maintenance of any State or National Air Quality Standard. Any approval granted by the Department shall not relieve an owner or operator of the responsibility of complying with applicable local, State, and Federal laws and regulations.

3.2 In situations in which construction, installation, or alteration is proposed, and operation of the equipment, facility, or air contaminant control device is to follow, such operation shall not commence until written approval is obtained by the applicant from the Department. The Department may condition approval to operate on a demonstration by the applicant of satisfactory performance, the Department may require the applicant to cease emissions from the source. Upon granting written approval for operation, the Department shall give notice of such approval within five days of the date of approval.

3.3 Within 60 days of receipt of a written request by the Department, an owner or operator of an existing facility, equipment, or device which emits or causes to be emitted an air contaminant, and which is not exempted under Section 4.1, shall submit an application to the Department for a permit.

3.4 No permit or renewal thereof shall be issued by the Department unless the applicant shows to the satisfaction of the Department that the equipment, facility, or air contaminant control device is designed to operate or is operating without causing a violation of any rule or regulation of the Department and without interfering with the attainment or maintenance of National and State ambient air quality standards. The Department may, from time to time, issue or accept criteria for the guidance of applicants indicating the technical specifications which it deems will comply with the performance standards referenced herein.

3.5 Before a permit or any renewal thereof is issued, the Department may require the applicant to conduct such tests as are necessary in the opinion of the Department to determine the kind and/or amount of the contaminants emitted from the equipment or whether the equipment or fuel or the operation of the equipment will be in violation of any of the provisions of any rule or regulation fo the Department. Such tests shall be made at the expense of the applicant and shall be conducted in a manner approved by the Department.

3.6 A permit or any renewal thereof shall be valid for a period not to exceed three years from the date of issuance, unless sooner revoked by order of the Department, and may be renewed upon application to the Department.

3.7 In the event the Department denies a request for approval of a permit to operate any equipment, facility, or device for which an application was made, the applicant shall not commence operation until such time that approval has been obtained from the Department or a permit to operate has been issued by the Department.

3.8 Upon receipt of an application for the issuance of an operating permit or any renewal thereof, the Department, in its discretion, may issue a temporary operating permit valid for a period not to exceed ninety (90) days.

(3.0) Section 4 - Exemptions

4.1 Any existing source which emits 25 tons per year or less of any air contaminant is exempt from the requirements of Section 3.3, except as provided for in Subsection 4.3 and 4.4.

4.2 A permit for installation, alteration, or operation shall not be required for the following new equipment or apparatus:

a. Air contaminant detector, air contaminant recorder, combustion controller or combustion shut-off.

b. Fuel burning equipment, other than smokehouse generators, which:

1. Uses only natural gas, LP gas, or other desulfurized fuel gas and has a rated heat input of less than 250 million BTU per hour; or

2. Is used in a private dwelling as defined in Regulation I; or

3. Has a BTU input of less than 1,000,000 BTU per hour.

c. Air conditioning or comfort ventilating systems.

d. Vacuum cleaning systems used exclusively for industrial, commercial, or residential housekeeping.

e. Ventilating or exhaust systems for print storage room cabinets.

f. Exhaust systems for controlling steam and heat.

g. Laboratory equipment used exclusively for chemical or physical analyses.

h. Internal combustion engines and vehicles used for transport of passengers or freight, except as may be provided in subsequent Regulations.

i. Equipment or apparatus emitting less than ten pounds per day of any air contaminant which, in the written opinion of the Department has little or no potential of causing air pollution.

j. Maintenance, repair, or replacement in kind of equipment for which a permit to operate has been issued.

k. Equipment which emits only nitrogen, oxygen, carbon dioxide, and/or water vapor.

l. Ventilating or exhaust systems used in eating establishments where food is prepared for the purpose of human consumption.

m. Equipment used to liquefy or separate oxygen, nitrogen or the rate gases from the air.

n. Fireworks.

o. Smudge pots for orchards or small outdoor heating devices to prevent freezing of plants.

p. Outdoor painting and sand blasting equipment.

q. Lawnmowers, tractors, farm equipment and construction equipment.

r. Gasoline station storage tanks and motor vehicle fuel servicing equipment.

s. Fireplaces for burning of wood and paper.

4.3 Provisions of Subsection 4.1 shall not apply to equipment directly involved in the following industries:

CHEMICAL PROCESS INDUSTRIES:

Chlorine
Explosives
Hydrofluoric acid
Nitric acid
Paint and varnish manufacturing

Cont'd.

CHEMICAL PROCESS INDUSTRIES

Plastics manufacturing
Printing ink manufacturing
Sulfuric acid
Synthetic fibers
Synthetic rubber

FOOD AND AGRICULTURAL INDUSTRIES:

Alfalfa dehydrating
Feed and grain
Fertilizers
Fish meal processing
Meat smokehouses

METALLURGICAL INDUSTRIES:

Aluminum operations
Brass and bronze smelting
Ferroalloys
Gray iron foundries
Lead smelting
Steel foundries
Zinc processes

MINERAL PRODUCTS INDUSTRIES:

Asphalt roofing
Asphaltic concrete batching
Bricks and related clay refractories
Castible refractories
Cement
Concrete batching
Rock, gravel, and sand quarrying and processing

PETROLEUM REFINING:

PETROCHEMICAL OPERATIONS:

PIGMENT OPERATIONS:

ORGANIC CHEMICAL INDUSTRIES:

INORGANIC CHEMICAL INDUSTRIES:

WOOD PROCESSING:

PETROLEUM STORAGE:

MISCELLANEOUS:

Fossil fuel burning equipment
Incinerators

4.4 Provisions of Subsections 4.1 and 4.2 shall not apply to any source which emits an air contaminant designated as a hazardous pollutant by the Environmental Protection Agency.

(3.0) Section 5 - Applications Prepared by Interested Party

5.1 Application for an installation or alteration permit or for the renewal of such permit shall be made by the owner or lessee of the equipment, or apparatus or his agent, on forms furnished by the Department. Applications for an operating permit or its renewal may be made by letter. If the applicant is a partnership or group other than a corporation, the application shall be made by one individual who is a member of the group. If the applicant is a corporation, the application shall be made by an appropriate representative of the corporation. The application shall be filed at the Division of Environmental Control.

5.2 Each application shall be signed by the applicant, and certified by a professional engineer as to the accuracy of the technical information concerning the equipment, apparatus, or design features contained in the application, plus plans and other papers submitted. For the renewal of a permit, the applicant's professional engineer shall certify that the equipment satisfies the provisions of rules and regulations of the Department. The signature of the applicant shall constitute an agreement that the applicant will assume responsibility for the installation, alteration or use of the equipment or apparatus concerned in accordance with the requirements of this Regulation.

5.3 Application for the renewal of an operating permit shall be postmarked or date stamped by the Department upon personal delivery no later than ninety (90) days prior to the expiration of the permit.

(3.0) Section 6 - Cancellation of Permits

6.1 The Department may cancel a permit if the installation or alteration is not begun or if the work involved in the installation or alteration is not completed, within the time limits specified in the permit.

6.2 With the consent of the Department and at its discretion an applicant may secure an extension of the expiration date after written request to the Department stating the reasons therefore. An extension may be granted for a period not to exceed six months. The Department shall not grant any further extensions without first holding a public hearing. The expense of such hearing shall be borne by the applicant.

(3.0) Section 7 - Action on Applications

7.1 The Department shall act within sixty (60) days on an application for a permit or for a renewal of an operating permit and shall notify the applicant in writing of the status of the application.

7.2 If an application is disapproved, the Department shall set forth its objections in the notice of disapproval.

(3.0) Section 8 - Suspension or Revocation of Operating Permits

8.1 The Department may suspend or revoke an operating permit for violation of this or any rule or regulation of the Department or any law administered by the Department and may take such other actions as it deems necessary.

8.2 Suspension or revocation of an operating permit shall become final immediately upon service of notice on the holder of the permit, unless otherwise stated in the notice os suspension or revocation.

(3.0) Section 9 - Transfer of Permit Prohibited

9.1 No person shall transfer a permit from one location to another, or from one piece of equipment to another. No person shall transfer a permit from one person to another person unless thirty (30) days notice is given to the Department, and approval of such transfer is obtained in writing from the Department.

(3.0) Section 10 - Availability of Permits

10.1 Any permit shall be available on the premises designated on the permit.

REGULATION NO. III

(4.0) AMBIENT AIR QUALITY STANDARDS

(2.0) Section 1 - General Provisions

1.1 Air Quality Standards are required to assure that ambient air quality shall be consistent with established criteria and shall serve to effectively and reasonably manage the air resources of the State of Delaware.

1.2 At such time as additional pertinent information becomes available with respect to applicable air quality criteria, recommendations shall be incorporated and the air quality standards shall be subject to revisions.

1.3 The absence of a specific ambient air quality standard shall not preclude actions by the Department to control contaminants to assure protection, safety, welfare, and comfort of the people of the State of Delaware.

1.4 Air Quality Standards are defined by frequency distribution presentations and arithmetic averages. The characteristic parameters describing the frequency distribution are the geometric mean and 99th percentile.

a. The geometric mean is defined as the Nth root of the product of N numbers. Assuming a log-normal cumulative frequency distribution, the 50th percentile value will be equal to the geometric mean.

b. The arithmetic average (mean) is defined as the sum of a set of values divided by the number of values.

c. The 99th percentile for a group of numbers is defined as that value which is exceeded by one percent of the numbers.

1.5 The ambient air quality values stated herein shall apply to all areas outside a source property line.

1.6 The sampling and analytical procedures and techniques employed to determine ambient air concentrations of contaminants shall be consistent with methods which result in a representative evaluation of the prevailing conditions. The following methods shall be used directly or employed as reference standards against which other methods may be calibrated;

a. Total suspended particulates shall be determined gravimetrically from samples obtained by the filtration techniques of the high-volume sampler, and shall be in accordance with procedures described in "Air Pollution Measurements of the National Air Sampling Network: Analyses of Suspended Particulates 1957-1961, "Public Health Service Publication No. 978, Washington, D.C., 1962.

b. Sulfur dioxide shall be determined colorimetrically by the reference Pararosaniline method or by the Equivalent methods: (1) Gas Chromatographic Separation - Flame Photometric Detection, (2) Flame Photometric Detection, and (3) Coulometric Detection provided certain precautions are taken as indicated in the Federal Register of August 14, 1971, Volume 36, Number 158.

c. Carbon monoxide shall be determined by the Non-dispersive Infrared (NDIR) method or by the equivalent method of Gas Chromatographic Separation - Catalytic Conversion - Flame Ionization Detection as indicated in the Federal Register of August 14, 1971, Volume 36, Number 158.

d. Photochemical oxidants shall be determined by the Gas Phase Chemiluminescence method or by the equivalent methods: (1) Iodide Colorimetric Detection, and (2) UV Photometric Detection of ozone provided certain precautions are taken as indicated in the Federal Register of August 14, 1971, Volume 36, Number 158.

e. Total hydrocarbons shall be determined by the flame ionization technique as described by Andreatch and Feinland, "Continuous Trace Hydrocarbons Analysis by Flame Ionization." Anal. Chem. 32:1021-1024, July, 1960. Methane shall be determined by gas chromatography. Non-methane hydrocarbons shall be determined by the difference of these two measurements.

f. Nitrogen dioxide shall be determined by the U.S. Environmental Protection Agency reference method or methods or such other method as the State approves.

g. Hydrogen sulfide shall be determined by the Methylene Blue Colorimetric Detection method or by the equivalent method of Gas Chromatographic Separation - Flame Photometric Detection.

(2.0) Section 2 - General Restrictions

2.1 No person shall cause the Air Quality Standards specified in this Regulation to be exceeded.

(4.1) Section 3 - Suspended Particulates

3.1 The Primary Ambient Air Quality Standards for Particulate Matter are:

a. An annual geometric mean of 70 micrograms per cubic meter not to be exceeded, based upon twenty-four hour average concentrations.

b. A value of 200 micrograms per cubic meter not to be exceeded more than once per year, based upon twenty-four hour average concentrations.

c. A value of 500 micrograms per cubic meter not to be exceeded, based upon one hour average concentrations.

3.2 The Secondary Ambient Air Quality Standards for Particulate Matter are:

a. An annual geometric mean of 60 micrograms per cubic meter not to be exceeded, based upon twenty-four hour average concentrations.

b. A value of 150 micrograms per cubic meter not to be exceeded more than once per year, based upon twenty-four hour average concentrations.

(4.2) Section 4 - Sulfur Dioxide

4.1 The Primary Ambient Air Quality Standards for Sulfur Oxides measured as Sulfur Dioxide are as follows:

a. An annual geometric mean value of 0.025 parts per million (ppm) by volume, seventy (70) micrograms per cubic meter (ug/m^3), not to be exceeded, based upon twenty-four average concentrations.

b. An annual arithmetic average value of 0.030 ppm, 80 ug/m^3, not to be exceeded, based upon twenty-four hour average concentrations.

c. A 99th percentile value of 0.10 ppm, 260 ug/m^3, not to be exceeded, based upon twenty-four hour average concentrations.

d. A value of 0.13 ppm, 340 ug/m^3, not to be exceeded more than once per year, based upon twenty-four hour average concentrations.

4.2 The Secondary Ambient Air Quality Standards for Sulfur Oxides measured as Sulfur Dioxide are as follows:

a. An annual arithmetic mean of 0.02 parts per million (ppm), 60 micrograms per cubic meter (ug/m), not to be exceeded, based upon twenty-four hour average concentrations.

b. A value of 0.1 parts per million (ppm), 260 ug/m^3, not to be exceeded more than once per year, based upon twenty-four hour average concentrations.

c. A value of 0.5 parts per million by volume, 1300 micrograms per cubic meter, not to be exceeded more than once per year, based upon three hour average concentrations.

(4.5) Section 5 - Carbon Monoxide

5.1 The average concentration of carbon monoxide taken over any consecutive eight (8) hours shall not exceed a value of eight (8) parts per million

by volume (9.2 milligrams per cubic meter) more than one tenth of one percent (0.1%) of the time on an annual basis.

5.2 The average concentration of carbon monoxide taken over any consecutive eight (8) hours shall not exceed a value of twelve (12) parts per million by volume (13.8 milligrams per cubic meter).

5.3 The average concentration of carbon monoxide taken over any one (1) hour period shall not exceed thirty-five (35) parts per million by volume (40 milligrams per cubic meter).

(4.6) Section 6 - Photochemical Oxidants

6.1 The average concentration of photochemical oxidants taken over any one (1) hour period shall not exceed a value of eight one-hundredths (0.08) parts per million by volume (160 micrograms per cubic meter) more than once per year.

6.2 The average concentration of photochemical oxidants taken over any one (1) hour period shall not exceed a value of one tenth (0.1) part per million by volume (200 micrograms per cubic meter).

(4.4) Section 7 - Hydrocarbons

7.1 The hydrocarbons standards in subsection 7.2 and 7.3 are for use as a guide in devising implementation plans to achieve oxidant standards.

7.2 The average concentration of hydrocarbons, exclusive of methane, taken over a three (3) hour period from 6:00 to 9:00 a.m., local time, shall not exceed two tenths (0.2) parts per million (as carbon) by volume (131 micrograms per cubic meter) more than once a year.

7.3 The average concentration of hydrocarbons, exclusive of methane, taken over the three (3) hour period from 6:00 to 9:00 a.m., local time, shall not exceed three tenths (0.3) parts per million by volume (196.5 micrograms per cubic meter).

(4.3) Section 8 - Nitrogen Dioxide

8.1 The annual arithmetic mean concentration of nitrogen dioxide shall not exceed 0.05 parts per million (100 micrograms per cubic meter).

(4.7) Section 9 - Hydrogen Sulfide

9.1 The average concentration of hydrogen sulfide taken over any consecutive three (3) minutes shall not exceed 0.06 ppm.

9.2 The average concentration of hydrogen sulfide taken over any consecutive 60 minutes shall not exceed 0.03 ppm.

REGULATION NO. IV

(51.5) PARTICULATE EMISSIONS FROM FUEL BURNING EQUIPMENT

(2.0) Section 1 - General Provisions

1.1 The emission of particulate matter from fuel burning equipment shall be controlled to a limit that shall meet the ambient air quality requirements.

1.2 The provisions of this Regulation shall not apply where the heat input to the equipment is less than 1,000,000 BTU per hour.

1.3 The provisions of this Regulation shall not apply to equipment or operations whose emissions are controlled by Regulation No. V or Regulation No. VII.

1.4 For purposes of this Regulation, the heat input value shall be based upon the manufacturer's guaranteed maximum input or the Department's calculated input.

1.5 The provisions of this Regulation shall not apply to the start-up and shutdown of equipment which operates continuously or in an extended steady state when emissions from such equipment during start-up and shutdown are governed by an operation permit issued pursuant to the provisions of Section 3, Regulation No. II.

(50.1) Section 2 - Emission Limits

2.1 No person shall cause or allow the emission of particulate matter in excess of 0.3 pounds per million BTU heat input, maximum 2-hour average, from any unit of fuel burning equipment.

REGULATION NO. V

(51.0) PARTICULATE EMISSIONS FROM INDUSTRIAL PROCESS OPERATIONS

(2.0) Section 1 - General Provisions

1.1 The emission of particulate matter from industrial process equipment shall be controlled to a limit that shall meet the ambient air quality requirements.

1.2 The provisions of this Regulation shall not apply to indirect heat exchangers which shall be controlled by Regulation No. IV.

1.3 For all tables in this Regulation, unless otherwise indicated, the emission limitation for a process weight rate between any two consecutive process weight rates shall be determined by linear interpolation.

1.4 For all tables in this Regulation, unless otherwise indicated, the emission limitation for a process weight rate above the maximum process weight rate or below the minimum process weight rate shall be determined by linear extrapolation.

1.5 For purposes of this Regulation, the allowable mass emission rate of particulate matter shall be determined for individual units of equipment.

1.6 For operations involving similar units which are manifolded to a common stack, control techniques shall be such that no unit is emitting particulate matter at a rate which is in excess of the mass emission rate allowed by this Regulation.

1.7 The provisions of this Regulation shall not apply to the start-up and shutdown of equipment which operates continuously or in an extended steady state when emissions from such equipment during start-up and shutdown are governed by an operation permit issued pursuant to the provisions of Section 3, Regulation No. II.

(2.0) Section 2 - General Restrictions

2.1 No person shall cause or allow particulate emissions into the atmosphere from any source not provided for in subsequent sections of this Regulation in excess of 0.2 grains per standard cubic foot.

(51.8) Section 3 - Restrictions on Hot Mix Asphalt Batching Operations

3.1 No person shall cause or allow particulate emissions from a hot mix asphalt batching plant into the atmosphere in excess of the quantity as listed in Table 1.

TABLE 1

ALLOWABLE MASS EMISSION RATE FROM
HOT MIX ASPHALT BATCHING OPERATION

Process Weight Rate (Pounds Per Hour)	Stack Emission Rate (Pounds Per Hour)
10,000	10
20,000	16
30,000	22
40,000	28
50,000	31
100,000	33
200,000	37
300,000	40
400,000	43
500,000	47
600,000	50

(51.17) Section 4 - Restrictions on Secondary Metal Operations

4.1 No person shall cause or allow particulate emissions from secondary metal operations into the atmosphere in excess of the quantity as listed in Table 2.

TABLE 2

ALLOWABLE MASS EMISSION RATE
FROM SECONDARY METAL OPERATIONS

Process Weight Rate (Pounds Per Hour)	Stack Emissions Rate (Pounds Per Hour)
1,000	0.75
2,000	1.50
3,000	2.25
4,000	3.00
5,000	3.75
6,000	4.50
7,000	5.25
8,000	6.00
9,000	6.75
10,000	7.50
12,000	9.00
16,000	12.00
18,000	13.50
20,000	15.00
30,000	22.50
40,000	30.00
50,000	37.50

(51.15) Section 5 - Restrictions on Petroleum Refining Operations

5.1 Except as provided for in Section 5.2 no person shall cause or allow particulate emissions from catalytic cracking operations into the atmosphere in excess of the quantities as indicated in Table 3.

TABLE 3

ALLOWABLE MASS EMISSION RATE
FROM CATALYTIC CRACKING OPERATIONS

Coke Burn-Off Rate (Pounds Per Hour)	Mass Emission Rate (Pounds Per Hour)
7,000	50
14,000	100
21,000	150
28,000	200
42,000	300
56,000	400
70,000	500

For the purpose of interpolation and extrapolation calculations, "Coke Burn-Off Rate" shall be construed to be equivalent to "Process Weight Rate".

5.2 If between July 1, 1973, and October 1, 1974, the national secondary ambient air quality standard for suspended particulate is exceeded in the Metropolitan Philadelphia Interstate Air Quality Control Region due to a catalytic cracking operation located in New Castle County, than after January 1, 1975, no person shall cause or allow particulate emissions from catalytic cracking operations into the atmosphere in excess of the quantities as indicated in Table 4.

TABLE 4

ALLOWABLE MASS EMISSION RATE
FROM CATALYTIC CRACKING OPERATIONS

Coke Burn-Off Rate (Pounds Per Hour)	Mass Emission Rate (Pounds Per Hour)
7,000	5
14,000	10
21,000	15
28,000	20
42,000	30
56,000	40
70,000	50

For the purpose of interpolation and extrapolation calculations, "Coke Burn-Off Rate" shall be construed to be equivalent to "Process Weight Rate".

5.3 No person shall cause or allow particulate emissions from fluid coking operations into the atmosphere in excess of the quantities as indicated in Table 5.

TABLE 5

ALLOWABLE MASS EMISSION RATE
FROM FLUID COKING OPERATIONS

Process Weight Rate (Barrels Per Day)	Mass Emission Rate (Pounds Per Hour)
5,000	15
10,000	30
15,000	50
20,000	70
30,000	100
40,000	125
50,000	150

(51.21) Section 6 - Restrictions on Prill Tower Operations

6.1 Except as provided for in Section 6.2, no person shall cause or allow particulate emissions from prilling operations into the atmosphere in excess of the quantities as indicated in Table 6.

TABLE 6

ALLOWABLE MASS EMISSION RATE
FROM PRILLING OPERATIONS

Process Weight Rate (Pounds Per Hour)	Mass Emission Rate (Pounds Per Hour)
5,000	25
10,000	50
15,000	75
20,000	100
25,000	125
50,000	250
75,000	375
100,000	500

6.2 If, between July 1, 1973, and October 1, 1974, the national secondary ambient air quality standards for suspended particulate is exceeded in the Metropolitan Philadelphia Interstate Air Quality Control Region due to a prilling operation located in New Castle County then after January 1, 1975, no person shall cause or allow particulate emissions from prilling operations into the atmosphere in excess of the quantities as indicated in Table 7.

TABLE 7

ALLOWABLE MASS EMISSION RATE
FROM PRILLING OPERATIONS

Process Weight Rate (Pounds Per Hour)	Mass Emission Rate (Pounds Per Hour)
5,000	5
10,000	10
15,000	15
20,000	20
25,000	25
50,000	50
75,000	75
100,000	100

(50.7) Section 7 - Control of Potentially Hazardous Particulate Matter

7.1 Persons responsible for a source operation from which potentially hazardous particulate matter may be emitted such as, but not limited to, lead, arsenic, beryllium, silica, asbestos, and other such materials shall list such contaminants and their exit concentrations in a written report to the Department. The Department shall assign emission limits on an individual basis.

REGULATION NO. VI

(51.3) PARTICULATE EMISSIONS FROM CONSTRUCTION AND MATERIALS HANDLING

(2.0) Section 1 - General Provisions

1.1 The purpose of this Regulation is to control particulate emissions from construction and materials handling operations to a limit so as not to cause a condition of air pollution.

(51.3) Section 2 - Demolition

2.1 No person shall cause or allow the demolition of existing structures, buildings, or parts of buildings, in New Castle County or in incorporated areas of Kent and Sussex Counties unless methods are employed to control dust emissions.

2.2 Such methods may include the application of water or the use of other techniques approved by the Department.

2.3 The restriction of Subsection 2.1 may be extended to unincorporated areas of Kent and Sussex Counties in situations where the Department determines that demolition activities could emit dust in quantities sufficient to cause air pollution.

(51.3) Section 3 - Grading, Land Clearing, Excavation and Use of Non-Paved Roads

3.1 No person shall cause or allow land clearing, land grading (including grading for roads), excavation, or the use of non-paved roads on private property unless methods, as indicated in Subsection 2.2, are employed to control dust emissions, when the Department determines that such activities could emit dust in quantities sufficient to cause air pollution.

(51.3) Section 4 - Material Movement

4.1 No person shall cause or allow visible particulate emissions of any material being transported by a motor vehicle.

(51.3) Section 5 - Sandblasting

5.1 No person shall cause or allow sandblasting or related abrasion operations unless sufficient containment measures are taken to prevent the sand and/or abrasive material from traveling beyond the property line where the operation is being conducted.

(51.3) Section 6 - Material Storage

6.1 No person shall cause or allow stockpiling or other storage of material or transport to or from a storage facility in such a manner as may cause a condition of air pollution.

REGULATION NO. VII

(51.9) PARTICULATE EMISSIONS FROM INCINERATION

(2.0) Section 1 - General Provisions

1.1 The provisions of Sections 1 and 2 of this Regulation shall not apply to incineration operations disposing of refuse at a rate greater than 3,000 pounds per hour. Control for such operations will be specified individually by the Department.

1.2 The provisions of this Regulation shall not apply to open-pit incinerators. Control for such operations will be specified on an individual basis by the Department.

1.3 The provisions of this Regulation shall not apply to incinerators which are used exclusively for experimentation. Control of such units will be specified on an individual basis by the Department.

1.4 The allowable mass emission rate for a charging rate between any two consecutive charging rates shall be determined by linear interpolation from Table 1.

1.5 The allowable mass emission rate for a charging rate below the minimum charging rate shall be determined by linear extrapolation from Table 1.

1.6 The provisions of this Regulation shall not apply to the start-up and shutdown of equipment which operates continuously or in an extended steady state when emissions from such equipment during start-up and shutdown are governed by an operation permit issued pursuant to the provisions of Section 3, Regulation No. II.

(2.0) Section 2 - Restrictions

2.1 No person shall cause or allow particulate emissions from refuse incinerators into the atmosphere in excess of the appropriate mass emission rate indicated in Table 1.

TABLE 1

ALLOWABLE MASS EMISSION RATE FROM
REFUSE INCINERATION EQUIPMENT

Charging Rate (Pounds Per Hour)	Mass Emission Rate (Pounds Per Hour)
100	0.2
200	0.4
300	0.6
400	0.8
500	1.0
1,000	2.0
2,000	3.5
3,000	5.0

2.2 No person shall cause or allow the construction of any new incinerator except for the disposal of:

a. Pathological waste

b. Contaminated waste

c. Industrial waste or sludge in specific instances where no other method of disposal is acceptable to the Secretary.

d. Composted refuse or sludge from sewage treatment plants specifically prepared for incineration.

REGULATION NO. VIII

(51.6) SULFUR DIOXIDE EMISSIONS FROM FUEL BURNING EQUIPMENT

(2.0) Section 1 - General Provisions

1.1 The emission of sulfur dioxide from fuel burning equipment shall be controlled to a limit that shall meet the ambient air quality requirements.

1.2 The provisions of this Regulation shall not apply to the start-up and shutdown of equipment which operates continuously or in an extended steady state when emissions from such equipment during start-up and shutdown are governed by an operation permit issued pursuant to the provisions of Section 3, Regulation No. II.

1.3 This Regulation shall not apply to fuels used in fluid coking or catalyst regeneration.

1.4 This Regulation shall not apply to fuels used by watercraft.

(51.6) Section 2 - Limit on Sulfur Content of Fuel

2.1 No person shall offer for sale, sell, or purchase any fuel having a sulfur content greater than one (1.0) percent by weight when such fuel is intended for use in any fuel burning equipment in New Castle County. No person shall use any fuel having a sulfur content greater than one (1.0) percent by weight in any fuel burning equipment in New Castle County.

2.2 No person shall offer for sale, sell, purchase or use in any fuel burning equipment, distillate fuel oil having a sulfur content greater than 0.3 percent by weight.

(2.0) Section 3 - Emission Control in Lieu of Sulfur Content Limits of Section 2

3.1 The limits on sulfur content established by Section 2 shall not apply to any fuel burning equipment employing emission control which limits sulfur dioxide emission to that which would result from burning, without emission control, a fuel permitted by Section 2. In order to employ an emission control rather than sulfur content limits as a means of complying with this Regulation, an owner or operator of fuel burning equipment must demonstrate to the Department in advance that the equivalent emission will be achieved.

REGULATION NO. IX

(51.0) SULFUR DIOXIDE EMISSIONS FROM INDUSTRIAL OPERATIONS

(2.0) Section 1 - General Provisions

1.1 The emission of sulfur dioxide from process operations shall be controlled to a limit that shall meet the ambient air quality requirements.

1.2 For all tables in this Regulation, unless otherwise indicated, the emission limitation for a production rate between any two consecutive production rates shall be determined by linear interpolation.

1.3 For all tables in this Regulation, unless otherwise indicated, the emission limitation for a production rate above the maximum production rate or below the minimum production rate shall be determined by linear extrapolation.

1.4 The provisions of this Regulation shall not apply to the start-up and shutdown of equipment which operates continuously or in an extended steady state when emissions from such equipment during start-up and shutdown are governed by an operation permit issued pursuant to the provisions of Section 3, Regulation No. II.

(51.18) Section 2 - Restrictions on Sulfuric Acid Manufacturing Operations

2.1 No person shall cause or allow the emission of sulfur dioxide in the tail gases from any existing sulfuric acid manufacturing operation to exceed either a concentration of 1,000 parts per million by volume or a mass emission rate as specified in Table 1.

TABLE 1

ALLOWABLE MASS EMISSION RATE OF SULFUR DIOXIDE FROM EXISTING SULFURIC ACID MANUFACTURING OPERATIONS

Production Rate (Tons Per Day)	Mass Emission Rate (Pounds Per Hour)
100	75
300	210
500	345
700	480
900	615
1100	750
1300	885
1500	1020

2.2 No person shall cause or allow the emission of sulfur dioxide in the tail gases from new sulfuric acid manufacturing operations to exceed either a concentration of 500 parts per million by volume or a mass emission rate as specified in Table 2.

TABLE 2

ALLOWABLE MASS EMISSION RATE OF SULFUR DIOXIDE FROM NEW SULFURIC ACID MANUFACTURING OPERATIONS

Production Rate (Tons Per Day)	Mass Emission Rate (Pounds Per Hour)
100	38
300	105
500	173
700	240
900	308
1100	375
1300	443
1500	510

(51.19) Section 3 - Restriction on Sulfur Recovery Operations

3.1 No person shall cause or allow the emission of sulfur dioxide in the tail gases from existing sulfur recovery operations to exceed either a concentration of 2,000 parts per million by volume or a mass emission rate as specified in Table 3.

TABLE 3

ALLOWABLE MASS EMISSION RATE OF SULFUR DIOXIDE FROM SULFUR RECOVERY OPERATIONS

Production Rate (Tons Per Day)	Mass Emission Rate (Pounds Per Hour)
50	425
100	550
200	800
300	1050
400	1300
500	1550
600	1800
700	2050
800	2300
900	2550
1000	2800

3.2 No person shall cause or allow the emission of sulfur dioxide in the tail gases from new sulfur recovery operations to exceed either a concentration of 2,000 parts per million by volume or a mass emission rate as specified in Table 3.

(51.6) Section 4 - Stack Height Requirements

4.1 Minimum stack heights for new sources of sulfur dioxide will be determined by the Department on an individual basis. Such stack height requirements will be based on considerations such as, but not limited to, existing ambient levels of sulfur dioxide, local sources, atmospheric dispersion calculations, land use, and population density.

REGULATION NO. X

(50.2) CONTROL OF SULFUR DIOXIDE EMISSIONS
KENT AND SUSSEX COUNTIES

(50.2) Section 1 - Requirements for Existing Sources of Sulfur Dioxide

1.1 If in the course of field investigations the Department determines that the ambient air standards for sulfur dioxide are being exceeded, the Department shall determine the sources responsible for the excess levels of sulfur dioxide. The Department shall determine the reductions required to attain stated air quality standards on the basis of such equitable methods as the Department may establish. In the Department's deliberations on how the reductions will be attained, it shall make use of appropriate provisions in Section 2 of this Regulation and shall also consider the relative contributions of different emission sources.

(10.0)
(50.2) Section 2 - Requirements for New Sources of Sulfur Dioxide

2.1 The mass emission rate of sulfur dioxide from any individual source, for example, combustion operations or manufacturing processes, shall be determined by acceptable atmospheric dispersion equations in order to meet the air quality standards contained in Regulation III.

2.2 Where multiple sources of sulfur dioxide may occur, either due to the building of multiple sources, or the building of a single new source on the property adjacent to an existing source or sources, the Department will consider the additive effect due to the proximity of the source or sources to each other or to other existing sources in judging whether the ambient air quality standards may thus be exceeded. In such instances, the Department may require a discharge of less sulfur dioxide to the atmosphere for the new source than would be considered permissible from the "Engineering Guides".

2.3 Emissions of sulfur dioxide from watercraft and from sources where less than 3.0 pounds per hour of sulfur dioxide are discharged, are excluded from the provisions of this Regulation.

2.4 Any operation whose emissions are also controlled by Regulation No. IX shall be subject to the more restrictive of the two Regulations.

(51.0) REGULATION NO. XI

CARBON MONOXIDE EMISSIONS FROM INDUSTRIAL PROCESS OPERATIONS

NEW CASTLE COUNTY

(2.0) Section 1 - General Provisions

1.1 The provisions of this Regulation shall not apply to the start-up and shutdown of equipment which operates continuously or in an extended steady state when emissions from such equipment during start-up and shutdown are governed by an operation permit issued pursuant to the provisions of Section 3, Regulation No. II.

(51.15) Section 2 - Restrictions on Petroleum Refining Operations

2.1 In New Castle County, no person shall cause or allow the emission of carbon monoxide from any catalytic regeneration of a petroleum cracking system, petroleum fluid coker, or other petroleum process into the atmosphere, unless the carbon monoxide is burned at 1300°F for 0.3 seconds or greater in a direct-flame afterburner or boiler, or is controlled by an equivalent technique.

REGULATION NO. XII

(51.7) NITROGEN OXIDE EMISSIONS FROM FUEL BURNING EQUIPMENT

NEW CASTLE COUNTY

(2.0) Section 1 - General Provisions

1.1 The provisions of this Regulation shall not apply where the heat input to the equipment is less than 500 million BTU per hour.

1.2 The provisions of this Regulation shall not apply to fuel burning equipment when the heat produced in such equipment is used for some purpose other than the production of steam.

1.3 The provisions of this Regulation shall not apply to the start-up and shutdown of equipment which operates continuously or in an extended steady state when emissions from such equipment during start-up and shutdown are governed by an operation permit issued pursuant to the provisions of Section 3, Regulation No. II.

(2.0) Section 2 - Emission Limits in New Castle County

2.1 After July 1, 1976 no person shall cause or allow the emission of nitrogen oxides from fuel burning equipment in New Castle County in excess of the following limits:

a. From fuel burning equipment fired with gas: 0.2 pounds per million BTU of heat input, maximum 2-hour average.

b. From fuel burning equipment fired with fuels other than gas:

0.3 pounds per million BTU of heat input, maximum 2-hour average.

2.2 Emissions of nitrogen oxides shall be calculated as nitrogen dioxide for the purposes of this Regulation.

2.3 When different fossil fuels are burned simultaneously in any combination, the applicable standard shall be determined by proration based on percent of total heat input derived from each fuel.

(51.13)

REGULATION NO. XIII

OPEN BURNING

(2.0) Section 1 - General Provisions

1.1 The following operations are not subject to this Regulation:

a. Fires used only for cooking of food for human beings;

b. Fires used for recreational purposes;

c. Flares.

(2.0) Section 2 - General Restrictions

2.1 No person shall cause or allow the disposal of refuse by open burning.

2.2 No person shall cause or allow open burning in the conduct of a salvage operation.

2.3 No person shall cause or allow open burning in the area north of the Chesapeake and Delaware Canal or within the corporate limits of any municipality except for purposes of agricultural operations which shall require the prior written approval of the Department.

2.4 No person shall cause or allow any other open burning operation without the prior written approval of the Department except as provided in Section 4 and 5 of this Regulation.

2.5 Prior to approving any open burning operation the Department shall consider the following factors:

a. Distance from the nearest populated area;

b. Distance from any roadway;

c. Distance from any military, commercial, county, municipal, or private airport or landing strip;

d. Distance from areas of high public use where a large number of people may congregate such as a national reservation, state park, wildlife area, or state forest;

e. Number of residences in the immediate vicinity of the operation; and

f. The time at which the operation is to be conducted.

2.6 Open burning shall not be approved by the Department if:

a. It will cause a condition of air pollution; or

b. It will interfere with the attainment or maintenance or any air quality standard specified in Regulation No. III.

2.7 No person shall cause or allow approved open burning when, in the judgment of the Department:

a. Adverse meteorological conditions exist, or

b. Ambient air quality will be adversely affected.

2.8 This Section shall not regulate:

a. Open burning for plant disease or pest control, which shall be regulated by Section 3 of this Regulation.

b. Open burning for fire fighting exercises, which shall be regulated by Section 4 of this Regulation.

c. Domestic burning, which shall be regulated by Section 5 of this Regulation.

(51.13) Section 3 - Open Burning for Plant Disease or Pest Control

3.1 No person shall cause or allow burning for plant disease or pest control prior to obtaining the written approval of the Department. Approval shall not be granted unless the applicant has documented to the satisfaction of the Department that destruction by fire is the only effective means of control.

(51.13) Section 4 - Open Burning for Fire Fighting Exercises

4.1 Open burning for fire fighting instruction conducted at the Delaware State Fire School Training Center shall not be subject to this Regulation.

4.2 No person shall cause or allow open burning for fire fighting instruction at locations other than the Fire Training Center unless such operation meets with the following requirements:

a. A written request has been made to the State Fire School Director; and

b. Prior notification has been given to the Department; and

c. The fire fighting instruction is supervised by an instructor approved by the State Fire School.

4.3 No person shall cause or allow open burning for the removal of a fire hazard unless such operation meets the following requirements:

a. A written recommendation as to the necessity of the operation has been obtained from the State Fire Marshal; and

b. Prior notification has been given to the Department; and

c. A fire company is present during the entire operation.

(51.13) Section 5 - Domestic Burning

5.1 No person shall cause or allow the open burning of leaves north of the Chesapeake and Delaware Canal.

5.2 Except as limited by Section 5.1, domestic burning may be conducted without prior approval, subject to the following restrictions:

a. No person shall cause or allow domestic burning except between the hours of 10:00 a.m. and 4:00 p.m., local time.

b. No person shall cause or allow domestic burning when a burning ban has been declared by the State Fire Marshal.

c. No person shall cause or allow domestic burning when an Air Stagnation Advisory exists as issued by the Department.

d. No person shall cause or allow domestic burning unless it is conducted as far as practicable from adjacent properties.

e. No person shall cause or allow domestic burning in such a manner as to prevent attainment or maintenance of any air quality standard specified in Regulation No. III or to cause air pollution.

(50.1.2)

REGULATION NO. XIV

VISIBLE EMISSIONS

(2.0) Section 1 - General Provisions

1.1 The purpose of this Regulation is to control the emissions of visible air contaminants from all stationary sources.

1.2 Measurements of air contaminant visibility shall be in accordance with accepted practices of Ringelmann values or opacity percentages.

1.3 The provisions of this Regulation shall not apply to the start-up and shutdown of equipment which operates continuously or in an extended steady state when emissions from such equipment during start-up and shutdown are governed by an operation permit issued pursuant to the provisions of Section 3, Regulation No. II.

(2.0) Section 2 - Requirements

2.1 No person shall cause or allow the emission of visible air contaminants and/or smoke from a stationary source, the shade or appearance of which is greater than either a Number 1 of the Ringelmann Smoke Chart or twenty (20%) percent opacity for an aggregate of more than three (3) minutes in any one (1) hour or more than fifteen (15) minutes in any twenty-four(24) hour period.

(8.0)

REGULATION NO. XV

AIR POLLUTION ALERT AND EMERGENCY PLAN

(2.0) Section 1 - General Provisions

1.1 Air Pollution Emergency Plans are required to assure that during adverse weather conditions air contaminants in the atmosphere shall not increase in concentration to a degree that would be detrimental to the health, welfare and safety of the population.

1.2 Whenever the Department determines that the conditions of Section 2 have been met at any single air quality monitoring station in the State of Delaware, the applicable stage of this plan shall be declared by the Department for that Air Quality Region in which the monitoring station is located.

1.3 To assure compliance with this Regulation, sources designated by the Department shall submit Standby Plans in accordance with Section 4 or this regulation.

(8.0) Section 2 - Stages and Criteria

2.1 Air Pollution Watch - An Air Pollution Watch shall be activated by the Department when the National Weather Service issues an Air Stagnation Advisory which includes areas of the State of Delaware or when the Department Meteorologist forecasts an air stagnation period for the State, and when such air stagnation is forecast to continue for the next 36 hours.

2.2 Alert-Stage I - An Alert-Stage I status shall be declared when any one of the following conditions occur at any air quality monitoring station in the State of Delaware and when a condition of air stagnation is forecast to continue for at least an additional twelve hours:

a. The 6-hour average concentration of sulfur dioxide is equal to or exceeds 0.30 parts per million.

b. The 6-hour average of soiling index is equal to or exceeds 4.0 COHS.

c. The product of the 24-hour average ambient air concentration of sulfur dioxide in parts per million and the 24-hour average soiling index in COHS is equal to or exceeds 0.50 parts per million COHS.

d. The 24-hour average concentration of nitrogen dioxide is equal to or exceeds 0.20 parts per million.

2.3 Alert-Stage II - An Alert-Stage II status shall be declared when any one of the following conditions occur at any air quality monitoring station in the State of Delaware and when a condition of air stagnation is forecast to continue for at least an additional twelve hours:

a. The 6-hour average concentration of sulfur dioxide is equal to or exceeds 0.50 parts per million.

b. The 6-hour average of soiling index is equal to or exceeds 6.0 COHS.

c. The product of the 24-hour average ambient air concentration of sulfur dioxide in parts per million and the 24-hour average soiling index in COHS is equal to or exceeds 0.90 parts per million - COHS.

d. The 4-hour average concentration of ozone is equal to or exceeds 0.25 parts per million.

e. The 24-hour average concentration of nitrogen dioxide is equal to or exceeds 0.30 parts per million.

f. The 8-hour average of carbon monoxide is equal to or exceeds 30.0 parts per million.

2.4 Alert-Emergency Stage - An Alert-Emergency Stage status shall be declared when any one of the following conditions occur at any air quality monitoring station in the State of Delaware and when a condition of air stagnation is forecast to continue for at least an additional twelve hours.

a. The 24-hour average concentration of sulfur dioxide is equal to or exceeds 0.60 parts per million.

b. The 24-hour average of soiling index is equal to or exceeds 7.0 COHS.

c. The product of the 24-hour average ambient air concentration of sulfur dioxide in parts per million and the 24-hour average soiling index in COHS is equal to or exceeds 1.40 parts per million - COHS.

d. The 8-hour average concentration of carbon monoxide is equal to or exceeds 40.0 parts per million.

e. The 4-hour average concentration of ozone is equal to or exceeds 0.35 parts per million.

f. The 24-hour average concentration of nitrogen dioxide is equal to or exceeds 0.40 parts per million.

2.6 Termination - Once declared, any status reached by application of the criteria will remain in force until the criteria for that status are no longer met. At such time the applicable lower status shall be declared. Termination shall be declared when concentrations are less than Stage I and a weather advisory has been received that the air stagnation period is ended.

(2.0) Section 3 - Required Actions

1. Air Pollution Watch - The Department shall initiate an increased continuous watch of the air quality values at the air quality monitoring stations and shall inform the public and major industries of the situation.

TABLE 1
EMISSION REDUCTION OBJECTIVES

Source	Alert - Stage I
1. Coal or oil-fired electric power generating facilities.	a. Substantial reduction by utilization of fuels having low ash and sulfur content. b. Maximum utilization of atmospheric mixing for boiler lancing and soot blowing at times to be specified by the Department. c. Substantial reduction by diverting electric power generation to facilities outside an Alert Area.
2. Coal or oil-fired generating facilities having a capacity to burn in excess of four tons of coal or 600 gallons of oil per hour.	a. Substantial reduction by utilization of fuels having low ash and sulfur content. b. Maximum utilization of atmospheric mixing for boiler lancing and soot blowing at times to be specified by the Department. c. Substantial reduction of steam load demands consistent with continuing plant operations.
3. A. Manufacturing industries of the following classifications which employ twenty employees at one location: Primary Metals Petroleum Refining & Related Chemical & Allied Products; Plastic Paper & Allied Products; Glass, Clay and Hot Mix Plants; AND B. Other persons required by the Department to prepare plans.	a. Substantial reduction of air contaminants for manufacturing operations by curtailing, postponing, or deferring production and allied operations. b. Maximum reduction by deferring trade waste disposal operations which emit particles, gases, vapors or malodorous substances. c. Maximum reduction of heat load demands for processing. d. Maximum utilization of atmospheric mixing for boiler lancing and soot blowing at times to be specified by the Department.

3.2 Alert-Stage I

a. There shall be no open burning by any person;

b. The use of incinerators for the disposal of solid or liquid waste shall be limited to the hours specified by the Department, and plans for the alternate disposal methods will be formulated;

c. Persons operating fuel burning equipment which requires boiler lancing and soot blowing shall perform such operations only between the hours specified by the Department;

d. Any person responsible for the operation of a source of air contamination as set forth in Table 1 shall take all Air Pollution Alert - Stage I actions as required for such source of air contamination; and shall particularly put into effect the standby plans for Alert - Stage I status.

3.3 Alert-Stage II

a. There shall be no open burning by any person;

b. The use of incinerators for the disposal of any form of solid or liquid waste shall be prohibited;

c. Persons operating fuel-burning equipment which requires boiler lancing or soot blowing shall perform such operations only between the hours specified by the Department;

d. Any person responsible for the operation of a source of air contamination as set forth in Table II, shall take all Air Pollution Alert - Stage II actions as required for such source of air contamination; and shall particularly put into effect the standby plans for Alert - Stage II status.

3.4 Alert-Emergency Stage

a. There shall be no open burning by any person;

b. The use of incinerators for the disposal of any form of solid or liquid waste shall be prohibited;

c. Any person responsible for the operation of a source of air contamination as set forth in Table III shall take all Alert-Emergency Stage actions as required for such source of air contamination, and shall particularly put into effect the standby plans for Alert - Emergency Stage;

TABLE II
EMISSION REDUCTION OBJECTIVES

Source	Alert - Stage II
1. Coal or oil-fired electric power generating facilities.	a. Maximum reduction by utilization of fuels having lowest ash and sulfur content. b. Maximum utilization of atmospheric mixing for boiler lancing and soot blowing at times to be specified by the Department. c. Maximum reduction by diverting electric power generation to facilities outside Alert Area.
2. Coal or oil-fired generating facilities having a capacity to burn in excess of four tons of coal or 600 gallons of oil per hour.	a. Maximum reduction by utilization of fuels having the lowest available ash and sulfur content. b. Maximum utilization of atmospheric mixing for boiler lancing and soot blowing at times to be specified by the Department. c. Making ready for use a plan of action to be taken if an emergency develops.
3. A. Manufacturing industries of the following classifications which employ twenty employees at one location: Primary Metals Petroleum Refining & Related Chemical & Allied Products; Plastic Paper & Allied Products; Glass, Clay and Hot Mix Plants; AND B. Other persons required by the Department to prepare plans.	a. Maximum reduction of air contaminants for manufacturing operations by, if necessary, assuming economic hardship by postponing production and allied operations. b. Maximum reduction by deferring trade waste disposal operations which emit particles, gases, vapors, or malodorous substances. c. Maximum reduction of heat load demands for processing. d. Maximum utilization of atmospheric mixing for boiler lancing and soot blowing at times to be specified by the Department.

TABLE III
EMISSION REDUCTION OBJECTIVES

Source	Alert - Emergency Stage
1. Coal or oil-fired electric power generating facilities.	a. Maximum reduction by utilization of fuels having lowest ash and sulfur content. b. Maximum utilization of atmospheric mixing for boiler lancing and soot blowing at times to be specified by the Department. c. Maximum reduction by diverting electric power generating to facilities outside of Alert Area.
2. Coal or oil-fired process steam generating facilities having a capacity to burn in excess of four tons of coal or 600 gallons of oil per hour.	a. Cease operation.
3. A. Manufacturing industries of the following classifications which employ twenty employees at one location: Primary Metals Petroleum Refining & Related Chemical & Allied Products; Plastic Paper & Allied Products; Glass, Clay and Hot Mix Plants; AND B. Other industries required by the Department to prepare plans.	a. Cease operation.

d. All places of employment below shall immediately cease operations:

1. Mining and quarrying of non-metallic minerals;

2. All contract construction work except that which must proceed to avoid physical harm;

3. Wholesale trade establishments, i.e., places of business primarily engaged in selling merchandise to retailers, to industrial, commercial, institutional or professional users, or to other wholesalers, or acting as agents in buying merchandise for or selling merchandise to such persons or companies;

4. All offices of local, county, and state government including authorities, joint meetings and any other public body, except to the extent that such offices must continue to operate in order to enforce the requirements of this order pursuant to statute;

5. All retail trade establishments except pharmacies and stores primarily engaged in the sale of food;

6. Banks, credit agencies other than banks, securities and commodities brokers, dealers, exchanges and services; offices of insurance carriers, agents and brokers, real estate offices;

7. Wholesale and retail laundries, laundry services and cleaning and dyeing establishments; photographic studios, beauty shops, barber shops; shoe repair shops;

8. Advertising offices, consumer credit reporting, adjustment and collection agencies, duplicating, addressing, blueprinting; photocopying, mailing, mailing list and stenographic services, equipment rental services, commercial testing laboratories;

9. Automobile repair, automobile services, garages;

10. Establishments rendering amusement and recreation services including motion picture theatres;

11. Elementary and secondary schools, junior colleges, vocational schools, and public and private libraries.

e. The use of motor vehicles is prohibited except in emergencies as determined by local and state police and the Department;

f. All other manufacturing establishments not mentioned in Section 3.4 (a-e) will institute such actions as will reduce air contaminants from their operation by ceasing or curtailing operations which emit air contaminants to the maximum extent possible without causing injury to persons or serious damage to equipment.

(8.0) Section 4 - Standby Plans

4.1 Any person responsible for the operation of a source of air contamination set forth in Table I or, any other person when requested by the Department in writing, shall prepare standby plans, consistent with good industrial practice and safe operating procedures, for reducing the emission of air contaminants into the ambient air during periods of an Alert-Stages I and II and Alert - Emergency Stage. Standby Plans shall be designed to reduce or eliminate emissions of air contaminants into the outdoor atmosphere in accordance with objectives set forth in Tables I, II, and III and shall be approved by the Department.

4.2 Standby Plans, as required under Section 4.1, shall be in written form and show the location of the source of air contamination, the approximate amount of reduction of contaminants, and a brief description of the manner in which the reduction will be achieved during an Alert-Stages I and II and Alert-Emergency Stage.

4.3 Standby Plans, as required by this Section, shall be submitted to the Department upon request within thirty days of the receipt of such request. If, in the opinion of the Department, any standby plan does not effectively carry out the objectives as set forth in Table I, II, and III, the Department may disapprove said plan, state the reason for disapproval and order the preparation of an amended standby plan within the time specified in the order.

(4.0) REGULATION NO. XVI

SOURCES HAVING AN INTERSTATE AIR POLLUTION POTENTIAL

(2.0) Section 1 - General Provisions

1.1 Air contaminant emissions within the jurisdication of the State of Delaware must be controlled to the extent that a neighboring state regulation shall not be compromised.

1.2 Nothing contained in this Regulation shall be construed as to allow to a lesser degree of control as may be required by an additional Regulation adopted by the Department.

(2.0) Section 2 - Limitations

2.1 This Regulation shall apply to air contaminant sources only when the following factors are satisfied:

a. The receptor state has adopted a similar, reciprocal measure.

b. The receptor state has adopted ambient air quality criteria or standards for the area and air contaminant in question and had demonstrated that such measures are being enforced.

c. The receptor state demonstrates, to the satisfaction of the Department that a source within the State of Delaware is substantially affecting such established criteria or standards.

(2.0) Section 3 - Requirements

3.1 The Department shall require existing sources of air contaminants, whose emissions are carried into a neighboring state, to control their emissions to such an extent as to not substantially affect the ambient air quality in the receptor state.

3.2 All new sources of air contaminants, whose emissions are carried into a neighboring state, shall control their emissions to such an extent as to not substantially affect the ambient air quality of the receptor state.

REGULATION NO. XVII

(13.0) SOURCE MONITORING, RECORD KEEPING AND REPORTING

(9.0) Section 1 - Sampling and Monitoring

1.1 Upon written request of the Department, an owner or operator of an air contaminant source shall, at his expense, install, maintain, and use emission monitoring devices, keep records, and make periodic reports to the Department on the nature and amounts of emissions from such source. The Department shall make such data available to the public as reported and as correlated with any applicable emission standards or limitations.

1.2 Upon written request of the Department, an owner or operator of an air contaminant source shall, at his expense, sample the emissions of, or fuel used by, that source, maintain records and submit reports to the Department on the results of such sampling. The Department may make such data available to the public as reported and as correlated with any applicable emission standards or limitations.

1.3 The Department may conduct tests of emissions from or fuel used by any air contaminant source. Upon written request of the Department, the owner or operator of the air contaminant source shall provide necessary holes in stacks or ducts, and such other safe and proper sampling and testing facilities, exclusive of instruments and sampling devices, if any be necessary, for proper determinations of the emission of air contaminants. The Department shall have access to and use of monitoring, record-keeping and reporting required by Federal Regulations relating to emissions of air contaminants. The Department may make such data available to the public as reported or received and as correlated with any applicable emission standards or limitations.

1.4 All instrumentation, analytical techniques, calculations, records, and sampling locations and methods required by this Regulation shall have the prior approval of the Department.

1.5 Reports required by this Regulation shall be submitted in a form approved by the Department and shall be signed by a corporate officer or his designee whose signature shall constitute his own and his employer's certification that the data are accurate and complete.

REGULATION NO. XVIII

(51.1) PARTICULATE EMISSIONS FROM GRAIN HANDLING OPERATIONS

(51.1) Section 1 - Particulate Emissions from Grain Dryers and Corn Shellers

1.1 No grain dryer or corn sheller shall emit particulate matter larger in size than that which will pass through a 24 mesh screen (Tyler Scale) or equivalent. The technique used for controlling these emissions need not be by screening but must provide particulate emission control equivalent to that which would be obtained by the use of 24 mesh screen.

1.2 On or before September 1, 1974, all owners of grain dryers or corn shellers shall control particulate emissions in accordance with Section 1.1.

1.3 Any new grain dryer or corn sheller constructed after the effective date of this Regulation shall comply with the emission limitation of Section 1.1.

1.4 Any installation consisting of only a single grain dryer with a capacity of less than 500 bushels per hour at 5% moisture reduction is exempt from this regulation. In-bin grain dryers are exempt from this Regulation.

(51.1) Section 2 - Restrictions for Chaff, Husks, and Cobs

2.1 No grain dealer or grain handler shall cause or allow storage, accumulation, or collection of chaff, husks, cobs or other particulate matter from grain unless these particulates are contained in enclosures with openings not larger than the equivalent of 24 mesh screen (Tyler Scale).

2.2 No grain dealer or handler shall move or allow to be moved, chaff, husks, or cobs from any grain, unless precautions are taken to prevent unnecessary escape of these materials during transfer.

2.3 On or before September 1, 1974, all owners of facilities for storage accumulation or collection of chaff, husks, cobs or other particulate matter from grain shall comply with the provisions of Section 2.1 of this Regulation.

2.4 Any new facility for storage, accumulation or collection of chaff, husks, cobs or other particulate matter from grain, constructed after the effective date of this Regulation, shall comply with the emission limitation of Section 2.1.

(3.0) Section 3 - Registration, Plans of Corrective Action and Permits

3.1 Within 45 days after the effective date of this regulation any owner of any grain dryer, corn sheller or facility for storage, accumulation or collection of chaff, husks, and cobs shall register the installation with the Department of Natural Resources and Environmental Control on forms to be provided by the Department and shall submit a scheduled plan of corrective action acceptable to the Department describing those measures to be taken to control emissions, if necessary to comply with the provisions (Cont'd.)

of this Regulation.

3.2 No person shall construct or operate any grain dryer, corn sheller or facility for storage, accumulation or collection of chaff, husks, and cobs without first obtaining appropriate approval from the Department.

REGULATION NO. XIX

(50.6) CONTROL OF ODOROUS AIR CONTAMINANTS

(2.0) Section 1 - General Provisions

1.1 The purpose of this Regulation is to control odorous air contaminants which significantly effect the citizens of the State outside the boundaries of the air contaminant source.

1.2 Methods for determining a condition of air pollution due to an odorous air contaminant may include, but are not limited to, scentometer tests, air quality monitoring, and affidavits from affected citizens and investigators.

(2.0) Section 2 - Requirements

2.1 No person shall cause or allow the emission of an odorous air contaminant such as to cause a condition of air pollution.

FEDERALLY PROMULGATED

REGULATIONS

(10.0) 52.426 Review of New or Modified Indirect Sources

(b) Regulation for Review of New or Modified Indirect Sources

(1) All terms used in this paragraph but not specifically defined below shall have the meaning given them in 52.01 of this chapter.

(i) The term "indirect source" means a facility, building, structure, or installation which attracts or may attract mobile source activity that results in emissions of a pollutant for which there is a national standard. Such indirect sources include, but are not limited to:

(a) Highways and roads.

(b) Parking facilities.

(c) Retail, commercial and industrial facilities.

(d) Recreation, amusement, sports and entertainment facilities.

(e) Airports.

(f) Office and Government buildings.

(g) Apartment and condominium buildings.

(h) Education facilities.

(ii) The term "Administrator" means the Administrator of the Environmental Protection Agency or his designated agent.

(iii) The term "associated parking area" means a parking facility or facilities owned and/or operated in conjunction with an indirect source.

(iv) The term "aircraft operation" means an aircraft take-off or landing.

(v) The phrase "to commence construction" means to engage in a continuous program of on-site construction including site clearance, grading, dredging, or land filling specifically designed for an indirect source in preparation for the fabrication, erection, or installation of the building components of the indirect source. For the purpose of this paragraph, interruptions resulting from acts of God, strikes, litigation, or other matters beyond the control of the owner shall be disregarded in determining whether a construction or modification program is continuous.

(vi) The phrase "to commence modification" means to engage in a continuous program of on-site modification, including site clearance, grading, dredging, or land filling in preparation for specific modification of the indirect source.

(vii) The term "highway section" means the development proposal of a highway of substantial length between logical termini (major crossroads, population centers, major traffic generators, or similar major highway control elements) as normally included in a single location study or multi-year highway improvement program as set forth in 23 CFR 770.201 (38 FR 31677).

(viii) The term "highway project" means all or a portion of a highway section which would result in a specific construction contract.

(ix) The term "Standard Metropolitan Statistical Area (SMSA)" means such areas as designated by the U.S. Bureau of the Budget in the following publication: "Standard Metropolitan Statistical Area," issued in 1967, with subsequent amendments.

(2) The requirements of this paragraph are applicable to the following:

(i) In an SMSA:

(a) Any new parking facility or other new indirect source with an associated parking area, which has a new parking capacity of 1,000 cars or more; or

(b) Any modified parking facility, or any modification of an associated parking area, which increases parking capacity by 500 cars or more; or

(c) Any new highway project with an anticipated average annual daily traffic volume of 20,000 or more vehicles per day within ten years of construction; or

(d) Any modified highway project which will increase average annual daily traffic volume by 10,000 or more vehicles per day within ten years after modification.

(ii) Outside an SMSA:

(a) Any new parking facility, or other new indirect source with an associated parking area, which has a parking capacity of 2,000 cars or more; or

(b) Any modified parking facility, or any modification of an associated parking area, which increases parking capacity by 1,000 cars or more.

(iii) Any airport, the construction or general modification program of which is expected to result in the following activity within ten years of construction or modification:

(a) New airport: 50,000 or more operations per year by regularly scheduled air carriers, or use by 1,600,000 or more passengers per year.

(b) Modified airport: Increase of 50,000 or more operations per year by regularly scheduled air carriers over the existing volume of operations, or increase of 1,600,000 or more passengers per year.

(iv) Where an indirect source is constructed or modified in increments which individually are not subject to review under this paragraph, and which are not part of a program of construction or modification in planned incremental phases approved by the Administrator, all such increments commenced after December 31, 1974, or after the latest approval hereunder, whichever date is most recent, shall be added together for determining the applicability of this paragraph.

(3) No owner or operator of an indirect source subject to this paragraph shall commence construction or modification of such source after December 31, 1974, without first obtaining approval from the Administrator. Application for approval to construct or modify shall be by means prescribed by the Administrator, and shall include a copy of any draft or final environmental impact statement which has been prepared pursuant to the National Environmental Policy Act (42 U.S.C. 4321). If not included in such environmental impact statement, the Administrator may request the following information:

(i) For all indirect sources subject to this paragraph, other than highway projects:

(a) The name and address of the applicant.

(b) A map showing the location of the site of indirect source and the topography of the area.

(c) A description of the proposed use of the site, including the normal hours of operation of the facility, and the general types of activities to be operated therein.

(d) A site plan showing the location of associated parking areas, points of motor vehicle ingress and egress to and from the site and its associated parking areas, and the location and height of buildings on the site.

(e) An identification of the principal roads, highways, and intersections that will be used by motor vehicles moving to or from the indirect source.

(f) An estimate, as of the first year after the date the indirect source will be substantially complete and operational, of the average daily traffic volumes, maximum traffic volumes for one-hour and eight-hour periods, and vehicle capacities of the principal roads, highways, and intersections identified pursuant to subdivision (i) (e) of this subparagraph located within one-fourth mile of all boundaries of the site.

(g) Availability of existing and projected mass transit to service the site.

(h) Where approval is sought for indirect sources to be constructed in incremental phases, the information required by this subparagraph (3) shall be submitted for each phase of the construction project.

(i) Any additional information or documentation that the Administrator deems necessary to determine the air quality impact of the indirect source, including the submission of measured air quality data at the proposed site prior to construction or modification.

(ii) For airports:

(a) An estimate of the average number and maximum number of aircraft operations per day by type of aircraft during the first, fifth and tenth years after the date of expected completion.

(b) A description of the commercial, industrial, residential and other development that the applicant expects will occur within three miles of the perimeter of the airport within the first five and the first ten years after the date of expected completion.

(c) Expected passenger loadings at the airport.

(d) The information required under subdivisions (i) (a) through (i) of this subparagraph.

(iii) For highway projects:

(a) A description of the average and maximum traffic volumes for one, eight, and 24-hour time periods expected within 10 years of date of expected completion.

(b) An estimate of vehicle speeds for average and maximum traffic volume conditions and the vehicle capacity of the highway project.

(c) A map showing the location of the highway project, including the location of buildings along the right-of-way.

(d) A description of the general features of the highway project and associated right-of-way, including the approximate height of buildings adjacent to the highway.

(e) Any additional information or documentation that the Administrator deems necessary to determine the air quality impact of the indirect source, including the submission of measured air quality data at the proposed site prior to construction or modification.

(iv) For indirect sources other than airports and those highway projects subject to the provisions of paragraph (b) (6) (iii) of this section, the air quality monitoring requirements of paragraph (b) (3) (i) (i) of this section shall be limited to carbon monoxide, and shall be conducted for a period of not more than 14 days.

(4) (i) For indirect sources other than highway projects and airports, the Administrator shall not approve an application to construct or modify if he determines that the indirect source will:

(a) Cause a violation of the control strategy of any applicable state implementation plan; or

(b) Cause or exacerbate a violation of the national standards for carbon monoxide in any region or portion thereof.

(ii) The Administrator shall make the determination pursuant to paragraph (b) (4) (i) (b) of this section by evaluating the anticipated concentration of carbon monoxide at reasonable receptor or exposure sites which will be affected by the mobile source activity expected to be attracted by the indirect source. Such determination may be made by using traffic flow characteristic guidelines

published by the Environmental Protection Agency which relate traffic demand and capacity considerations to ambient carbon monoxide impact, by use of appropriate atmospheric diffusion models (examples of which are referenced in Appendix O to Part 51 of this chapter), and/or by any other reliable analytic method. The applicant may (but need not) submit with his application, the results of an appropriate diffusion model and/or any other reliable analytic method, along with the technical data and information supporting such results. Any such results and supporting data submitted by the applicant shall be considered by the Administrator in making his determination pursuant to paragraph (b) (4) (i) (b) of this section.

(5) (i) For airports subject to this paragraph, the Administrator shall base his decision on the approval or disapproval of an application on the considerations to be published as an Appendix to this Part.

(ii) For highway projects and parking facilities specified under paragraph (b) (2) of this section which are associated with airports, the requirements and procedures specified in paragraphs (b) (4) and (6) (i) and (ii) of this section shall be met.

(6) (i) For all highway projects subject to this paragraph, the Administrator shall not approve an application to construct or modify if he determines that the indirect source will:

(a) Cause a violation of the control strategy of any applicable state implementation plan; or

(b) Cause or exacerbate a violation of the national standards for carbon monoxide in any region or portion thereof.

(ii) The determination pursuant to paragraph (b) (6) (i) (b) of this section shall be made by evaluating the anticipated concentration of carbon monoxide at reasonable receptor or exposure sites which will be affected by the mobile source activity expected on the highway for the ten year period following the expected date of completion according to the procedures specified in paragraph (b) (4) (ii) of this section.

(iii) For new highway projects subject to this paragraph with an anticipated average daily traffic volume of 50,000 or more vehicles within ten years of construction, or modifications to highway projects subject to this paragraph which will increase average daily traffic volume by 25,000

or more vehicles within ten years after modification, the Administrator's decision on the approval or disapproval of an application shall be based on the considerations to be published as an Appendix to this Part in addition to the requirements of paragraph (b) (6) (i) of this section.

(7) The determination of the air quality impact of a proposed indirect source "at reasonable receptor or exposure sites", shall mean such locations where people might reasonably be exposed for time periods consistent with the national ambient air quality standards for the pollutants specified for analysis pursuant to this paragraph.

(8) (i) Within 20 days after receipt of an application or addition thereto, the Administrator shall advise the owner or operator of any deficiency in the information submitted in support of the application. In the event of such a deficiency, the date of receipt of the application for the purpose of paragraph (b) (8) (ii) of this section shall be the date on which all required information is received by the Administrator.

(ii) Within 30 days after receipt of a complete application, the Administrator shall:

(a) Make a preliminary determination whether the indirect source should be approved, approved with conditions in accordance with paragraphs (b) (9) or (10) of this section, or disapproved.

(b) Make available in at least one location in each region in which the proposed indirect source would be constructed, a copy of all materials submitted by the owner or operator, a copy of the Administrator's preliminary determination, and a copy or summary of other materials, if any, considered by the Administrator in making his preliminary determination; and

(c) Notify the public, by prominent advertisement in a newspaper of general circulation in each region in which the proposed indirect source would be constructed, of the opportunity for written public comment on the information submitted by the owner or operator and the Administrator's preliminary determination on the approvability of the indirect source.

(iii) A copy of the notice required pursuant to this subparagraph shall be sent to the applicant and to officials and agencies having cognizance over the location where the indirect source will be situated, as follows: State and local air pollution control agencies, the chief executive of the city and county; any comprehensive regional

land use planning agency; and for highways, any local board or committee charged with responsibility for activities in the conduct of the urban transportation planning process (3-C process) pursuant to 23 U.S.C. 134.

(iv) Public comments submitted in writing within 30 days after the date such information is made available shall be considered by the Administrator in making his final decision on the application. No later than 10 days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The Administrator shall consider the applicant's response in making his final decision. All comments shall be made available for public inspection in at least one location in the region in which the indirect source would be located.

(v) The Administrator shall take final action on an application within 30 days after the close of the public comment period. The Administrator shall notify the applicant in writing of his approval, conditional approval, or denial of the application, and shall set forth his reasons for conditional approval or denial. Such notification shall be made available for public inspection in at least one location in the region in which the indirect source would be located.

(vi) The Administrator may extend each of the time periods specified in paragraphs (b) (8) (ii), (iv), or (v) of this section by no more than 30 days, or such other period as agreed to by the applicant and the Administrator.

(9) (i) Whenever an indirect source as proposed by an owner or operator's application would not be permitted to be constructed for failure to meet the tests set forth pursuant to paragraphs (b) (4) (i), (b) (5) (i), or (b) (6) (i) and (iii) of this section, the Administrator may impose reasonable conditions on an approval related to the air quality aspects of the proposed indirect source so that such source, if constructed or modified in accordance with such conditions, could meet the tests set forth pursuant to paragraphs (b) (4) (i), (b) (5) (i), or (b) (6) (i) and (iii) of this section. Such conditions may include, but not be limited to:

(a) Binding commitments to roadway improvements or additional mass transit facilities to serve the indirect source secured by the owner or operator from governmental agencies having jurisdiction thereof;

(b) Binding commitments by the owner or operator to specific programs for mass transit incentives for employees and patrons of the source; and

(c) Binding commitments by the owner or operator to construct, modify, or operate the indirect source in such a manner as may be necessary to achieve the traffic flow characteristics published by the Environmental Protection Agency pursuant to paragraph (b) (4) (ii) of this section.

(ii) The Administrator may specify that any items of information provided in an application for approval related to the operation of an indirect source which may affect the source's air quality impact shall be considered permit conditions.

(10) Notwithstanding the provisions relating to modified indirect sources contained in paragraph (b) (2) of this section, the Administrator may condition any approval by reducing the extent to which the indirect source may be further modified without resubmission for approval under this paragraph.

(11) Any owner or operator who fails to construct an indirect source in accordance with the application as approved by the Administrator; any owner or operator who fails to construct and operate an indirect source in accordance with conditions imposed by the Administrator under paragraph (b) (9) of this section; any owner or operator who modifies an indirect source in violation of conditions imposed by the Administrator under paragraph (b) (10) of this section; or any owner or operator of an indirect source subject to this paragraph who commences construction or modification thereof after December 31, 1974, without applying for and receiving approval hereunder, shall be subject to the penalties specified under section 113 of the Act and shall be considered in violation of an emission standard or limitation under section 304 of the Act. Subsequent modification to an approved indirect source may be made without applying for permission pursuant to this paragraph only where such modification would not violate any condition imposed pursuant to paragraphs (b) (9) and (10) of this section and would not be subject to the modification criteria set forth in paragraph (b) (2) of this section.

(12) Approval to construct or modify shall become invalid if construction or modification is not commenced within 24 months after receipt of such approval. The Administrator may extend such time period upon satisfactory showing that an extension is justified. The applicant may apply for such an extension at the time of initial application or at any time thereafter.

(13) Approval to construct or modify shall not relieve any owner or operator of the responsibility to comply with the control strategy and all local, State and Federal regulations which are part of the applicable State implementation plan.

(14) Where the Administrator delegates the responsibility for implementing the procedures for conducting indirect source review pursuant to this paragraph to any agency, other than a regional office of the Environmental Protection Agency, the following provisions shall apply:

(i) Where the agency designated is not an air pollution control agency, such agency shall consult the appropriate State or local air pollution control agency prior to making any determination required by paragraphs (b) (4), (5), or (6) of this section. Similarly, where the agency designated does not have continuing responsibilities for land use planning, such agency shall consult with the appropriate State or local land use and transportation planning agency prior to making any determination required by paragraph (b) (9) of this section.

(ii) The Administrator of the Environmental Protection Agency shall conduct the indirect source review pursuant to this paragraph for any indirect source owned or operated by the United States Government.

(iii) A copy of the notice required pursuant to paragraph (b) (8) (ii) (c) of this section shall be sent to the Administrator through the appropriate Regional Office.

(15) In any area in which a "management of parking supply" regulation which has been promulgated by the Administrator is in effect, indirect sources which are subject to review under the terms of such a regulation shall not be required to seek review under this paragraph but instead shall be required to seek review pursuant to such management of parking supply regulation. For purposes of this paragraph, a "management of parking supply" regulation shall be any regulation promulgated by the Administrator as part of a transportation control plan pursuant to the Clean Air Act which requires that any new or modified facility containing a given number of parking spaces shall receive a permit or other prior approval, issuance of which is to be conditioned on air quality considerations.

(16) Notwithstanding any of the foregoing provisions to the contrary, the operation of this paragraph is hereby suspended pending further notice. No facility which commences construction prior to the expiration of the sixth month after the operation of this paragraph is reinstated (as to that type of facility) shall be subject to this paragraph.

(37 FR 10846, May 31, 1972 as amended at 40 FR 28065, July 3, 1975; 40 FR 40160, Sept. 2, 1975)

(17.0) 52.432 Prevention of Significant Deterioration

(b) Definitions. For the purposes of this section:

(1) "Facility" means an identifiable piece of process equipment. A stationary source is composed of one or more pollutant-emitting facilities.

(2) The phrase "Administrator" means the Administrator of the Environmental Protection Agency or his designated representative.

(3) The phrase "Federal Land Manager" means the head, or his designated representative, of any Department or Agency of the Federal Government which administers federally-owned land, including public domain lands.

(4) The phrase "Indian Reservation" means any federally-recognized reservation established by Treaty, Agreement, Executive Order, or Act of Congress.

(5) The phrase "Indian Governing Body" means the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.

(6) "Construction" means fabrication, erection or installation of a stationary source.

(7) "Commenced" means that an owner or operator has undertaken a continuous program of construction or modification or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modification.

(c) Area designation and deterioration increment

(1) The provisions of this paragraph have been incorporated by reference into the applicable implementation plans for various States, as provided in Subparts B through DDD of this part. Where this paragraph is so incorporated, the provisions shall also be applicable to all lands owned by the Federal Government and Indian Reservations located in such State. The provisions of this paragraph do not apply in those counties or other functionally equivalent areas that pervasively exceeded any national ambient air quality standards during 1974 for sulfur dioxide or particulate matter and then only with respect to such pollutants. States may notify the Administrator at any time of those areas which exceeded the national standards during 1974 and therefore are exempt from the requirements of this paragraph.

(2) (i) For purposes of this paragraph, areas designated as Class I or II shall be limited to the following increases in pollutant concentration occurring since January 1, 1975:

Pollutant	Area Designations: Class I (ug/m^3)	Area Designations: Class II (ug/m^3)
Particulate matter:		
Annual geometric mean	5	10
24-hr maximum	10	30
Sulfur dioxide:		
Annual arithmetic mean	2	15
24-hr maximum	5	100
3-hr maximum	25	700

(ii) For purposes of this paragraph, areas designated as Class III shall be limited to concentrations of particulate matter and sulfur dioxide no greater than the national ambient air quality standards.

(iii) The air quality impact of sources granted approval to construct or modify prior to January 1, 1975 (pursuant to the approved new source review procedures in the plan) but not yet operating prior to January 1, 1975, shall not be counted against the air quality increments specified in paragraph (c) (2) (i) of this section.

(3) (i) All areas are designated Class II as of the effective date of this paragraph. Redesignation may be proposed by the respective States, Federal Land Manager, or Indian Governing Bodies, as provided below, subject to approval by the Administrator.

(ii) The State may submit to the Administrator a proposal to redesignate areas of the State Class I, Class II, or Class III, provided that:

(a) At least one public hearing is held in or near the area affected and this public hearing is held in accordance with procedures established in 51.4 of this chapter, and

(b) Other States, Indian Governing Bodies, and Federal Land Managers whose lands may be affected by the proposed redesignation are notified at least 30 days prior to the public hearing, and

(c) A discussion of the reasons for the proposed redesignation is available for public inspection at least 30 days prior to the hearing and the notice announcing the hearing contains appropriate notification of the availability of such discussion, and

(d) The proposed redesignation is based on the record of the State's hearing, which must reflect the basis for the proposed redesignation, including consideration of (1) growth anticipated in the area, (2) the social, environmental, and economic effects of such redesignation upon the area being proposed for redesignation and upon other areas and States, and (3) any impacts of such proposed redesignation upon regional or national interests.

(e) The redesignation is proposed after consultation with the elected leadership of local and other substate general purpose governments in the area covered by the proposed redesignation.

(iii) Except as provided in paragraph (c) (3) (iv) of this section, a State in which lands owned by the Federal Government are located may submit to the Administrator a proposal to redesignate such lands Class I, Class II, or Class III in accordance with subdivision (ii) of this subparagraph provided that:

(a) The redesignation is consistent with adjacent State and privately owned land, and

(b) Such redesignation is proposed after consultation with the Federal Land Manager.

(iv) Notwithstanding subdivision (iii) of this subparagraph, the Federal Land Manager may submit to the Administrator a proposal to redesignate any Federal lands to a more restrictive designation than would otherwise to applicable provided that:

(a) The Federal Land Manager follows procedures equivalent to those required of States under paragraph (c) (3) (ii) and,

(b) Such redesignation is proposed after consultation with the State(s) in which the Federal Land is located or which border the Federal Land.

(v) Nothing in this section is intended to convey authority to the States over Indian Reservations where States have not assumed such authority under other laws nor is it intended to deny jurisdiction which States have assumed

under other laws. Where a State has not assumed jurisdiction over an Indian Reservation the appropriate Indian Governing Body may submit to the Administrator a proposal to redesignate areas Class I, Class II, or Class III, provided that:

(a) The Indian Governing Body follows procedures equivalent to those required of States under paragraph (c) (3) (ii) and,

(b) Such redesignation is proposed after consultation with the State(s) in which the Indian Reservation is located or which border the Indian Reservation and, for those lands held in trust, with the approval of the Secretary of the Interior.

(vi) The Administrator shall approve, within 90 days, any redesignation proposed pursuant to this subparagraph as follows:

(a) Any redesignation proposed pursuant to subdivisions (ii) and (iii) of this subparagraph shall be approved unless the Administrator determines (1) that the requirements of subdivisions (ii) and (iii) of this subparagraph have not been complied with, (2) that the State has arbitrarily and capriciously disregarded relevant considerations set forth in subparagraph (3) (ii) (d) of this paragraph, or (3) that the State has not requested and received delegation of responsibility for carrying out the new source review requirements of paragraphs (d) and (e) of this section.

(b) Any redesignation proposed pursuant to subdivision (iv) of this subparagraph shall be approved unless he determines (1) that the requirements of subdivision (iv) of this subparagraph have not been complied with, or (2) that the Federal Land Manager has arbitrarily and capriciously disregarded relevant considerations set forth in subparagraph (3) (ii) (d) of this paragraph.

(c) Any redesignation submitted pursuant to subdivision (v) of this subparagraph shall be approved unless he determines (1) that the requirements of subdivision (v) of this subparagraph have not been complied with, or (2) that the Indian Governing Body has arbitrarily and capriciously disregarded relevant considerations set forth in subparagraph (3) (ii) (d) of this paragraph.

(d) Any redesignation proposed pursuant to this paragraph shall be approved only after the Administrator has solicited written comments from affected Federal agencies and Indian Governing Bodies and from the public on the proposal.

(e) Any proposed redesignation protested to the proposing State, Indian Governing Body, or Federal Land Manager and to the Administrator by another State or Indian Governing Body because of the effects upon such protesting State or Indian Reservation shall be approved by the Administrator only if he determines that in his judgment the redesignation appropriately balances considerations of growth anticipated in the area proposed to be redesignated; the social, environmental and economic effects of such redesignation upon the area being redesignated and upon other areas and States; and any impacts upon regional or national interests.

(f) The requirements of paragraph (c) (3) (vi) (a) (3) that a State request and receive delegation of the new source review requirements of this section as a condition to approval of a proposed redesignation, shall include as a minimum receiving the administrative and technical functions of the new source review. The Administrator will carry out any required enforcement action in cases where the State does not have adequate legal authority to initiate such actions. The Administrator may waive the requirements of paragraph (c) (3) (vi) (a) (3) if the State Attorney-General has determined that the State cannot accept delegation of the administrative/technical functions.

(vii) If the Administrator disapproves any proposed area designation under this subparagraph, the State, Federal Land Manager or Indian Governing Body, as appropriate, may resubmit the proposal after correcting the deficiencies noted by the Administrator or reconsidering any area designation determined by the Administrator to be arbitrary and capricious.

(d) Review of new sources

(1) The provisions of this paragraph have been incorporated by reference into the applicable implementation plans for various States, as provided in Subparts B through DDD of this part. Where this paragraph is so incorporated, the requirements of this paragraph apply to any new or modified stationary source of the type identified below which has not commenced construction or modification prior to June 1, 1975 except as specifically provided below. A

source which is modified, but does not increase the amount of sulfur oxides or particulate matter emitted, or is modified to utilize an alternative fuel, or higher sulfur content fuel, shall not be subject to this paragraph.

(i) Fossil-Fuel Steam Electric Plants of more than 1000 million B.T.U. per hour heat input.

(ii) Coal Cleaning Plants.

(iii) Kraft Pulp Mills.

(iv) Portland Cement Plants.

(v) Primary Zinc Smelters.

(vi) Iron and Steel Mills.

(vii) Primary Aluminum Ore Reduction Plants.

(viii) Primary Copper Smelters.

(ix) Municipal Incinerators capable of charging more than 250 tons of refuse per 24 hour day.

(x) Sulfuric Acid Plants.

(xi) Petroleum Refineries.

(xii) Lime Plants.

(xiii) Phosphate Rock Processing Plants.

(xiv) By-Product Coke Oven Batteries.

(xv) Sulfur Recovery Plants.

(xvi) Carbon Black Plants (furnace process).

(xvii) Primary Lead Smelters.

(xviii) Fuel Conversion Plants.

(xix) Ferroalloy production facilities commencing construction after October 5, 1975.

(2) No owner or operator shall commence construction or modification of a source subject to this paragraph unless the Administrator determines that, on the basis of information submitted pursuant to subparagraph (3) of this paragraph:

(i) The effect on air quality concentration of the source or modified source, in conjunction with the effects of growth and reduction in emissions after January 1, 1975, of other sources in the area affected by the proposed source, will not violate the air quality increments applicable in the area where the source will be located nor the air quality increments applicable in any other areas. The analysis of emissions growth and reduction after January 1, 1975, of other sources in the areas affected by the proposed source shall include all new and modified sources granted approval to construct pursuant to this paragraph; reduction in emissions from existing sources which contributed to air quality during all or part of 1974; and general commercial, residential, industrial, and other sources of emissions growth not exempted by paragraph (c) (2) (111) of this section which has occurred since January 1, 1975.

(ii) The new or modified source will meet an emission limit, to be specified by the Administrator as a condition to approval, which represents that level of emission reduction which would be achieved by the application of best available control technology, as defined in 52.01 (f), for particulate matter and sulfur dioxide. If the Administrator determines that technological or economic limitations on the application of measurement methodology to a particular class of sources would make the imposition of an emission standard infeasible, he may instead prescribe a design or equipment standard requiring the application of best available control technology. Such standard shall to the degree possible set forth the emission reductions achievable by implementation of such design or equipment, and shall provide for compliance by means which achieve equivalent results.

(iii) With respect to modified sources, the requirements of subparagraph (2) (ii) of this paragraph shall be applicable only to the facility or facilities from which emissions are increased.

(3) In making the determinations required by paragraph (d) (2) of this section, the Administrator shall, as a minimum, require the owner or operator of the source subject to this paragraph to submit: site information, plans, description, specifications, and drawings showing the design of the source; information necessary to determine the impact that the construction or modification will have on sulfur dioxide and particulate matter air quality levels; and any other information necessary to determine that best available control technology will be applied. Upon request of the Administrator, the owner or operator of the source shall provide information on the nature and extent of general commercial, residential, industrial, and other growth which has occurred in the area affected by the source's emissions (such area to be specified by the

Administrator) since January 1, 1975.

(4) (i) Where a new or modified source is located on Federal Lands, such source shall be subject to the procedures set forth in paragraphs (d) and (e) of this section. Such procedures shall be in addition to applicable procedures conducted by the Federal Land Manager for administration and protection of the affected Federal Lands. Where feasible, the Administrator will coordinate his review and hearings with the Federal Land Manager to avoid duplicate administrative procedures.

(ii) New or modified sources which are located on Indian Reservations shall be subject to procedures set forth in paragraphs (d) and (e) of this section. Such procedures shall be administered by the Administrator in cooperation with the Secretary of the Interior with respect to lands over which the State has not assumed jurisdiction under other laws.

(iii) Whenever any new or modified source is subject to action by a Federal Agency which might necessitate preparation of an environmental impact statement pursuant to the National Environmental Policy Act (42 U.S.C. 4321), review by the Administrator conducted pursuant to this paragraph shall be coordinated with the broad environmental reviews under that Act, to the maximum extent feasible and reasonable.

(5) Where an owner or operator has applied for permission to construct or modify pursuant to this paragraph and the proposed source would be located in an area which has been proposed for redesignation to a more stringent class (or the State, Indian Governing Body, or Federal Land Manager has announced such consideration), approval shall not be granted until the Administrator has acted on the proposed redesignation.

(e) Procedures for public participation

(1) (i) Within 20 days after receipt of an application to construct, or any addition to such application, the Administrator shall advise the owner or operator of any deficiency in the information submitted in support of the application. In the event of such a deficiency, the date of receipt of the application for the purpose of paragraph (e) (1) (ii) of this section shall be the date on which all required information is received by the Administrator.

(ii) Within 30 days after receipt of a complete application, the Administrator shall:

(a) Make a preliminary determination whether the source should be approved, approved with conditions, or disapproved.

(b) Make available in at least one location in each region in which the proposed source would be constructed, a copy of all materials submitted by the owner or operator, a copy of the Administrator's preliminary determination and a copy or summary of other materials, if any, considered by the Administrator in making his preliminary determination; and

(c) Notify the public, by prominent advertisement in newspaper of general circulation in each region in which the proposed source would be constructed, of the opportunity for written public comment on the information submitted by the owner or operator and the Administrator's preliminary determination on the approvability of the source.

(iii) A copy of the notice required pursuant to this subparagraph shall be sent to the applicant and to officials and agencies having cognizance over the locations where the source will be situated as follows: State and local air pollution control agencies, the chief executive of the city and county; any comprehensive regional land use planning agency; and any State, Federal Land Manager or Indian Governing Body whose lands will be significantly affected by the source's emissions.

(iv) Public comments submitted in writing within 30 days after the date such information is made available shall be considered by the Administrator in making his final decision on the application. No later than 10 days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The Administrator shall consider the applicant's response in making his final decision. All comments shall be made available for public inspection in at least one location in the region in which the source would be located.

(v) The Administrator shall take final action on an application within 30 days after the close of the public comment period. The Administrator shall notify the applicant in writing of his approval, conditional approval, or denial of the application, and shall set forth his reasons for conditional approval or denial. Such notification shall be made available for public inspection in at least one location in the region in which the source would be located.

(vi) The Administrator may extend each of the time periods specified in paragraph (e) (1) (ii), (iv), or (v) of this section by no more than 30 days or such other period as agreed to by the applicant and the Administrator.

(2) Any owner or operator who constructs, modifies, or operates a stationary source not in accordance with the application, as approved and conditioned by the Administrator, or any owner or operator of a stationary source subject to this paragraph who commences construction or modification after June 1, 1975, without applying for and receiving approval hereunder, shall be subject to enforcement action under section 113 of the Act.

(3) Approval to construct or modify shall become invalid if construction or expansion is not commenced within 18 months after receipt of such approval or if construction is discontinued for a period of 18 months or more. The Administrator may extend such time period upon a satisfactory showing that an extension is justified.

(4) Approval to construct or modify shall not relieve any owner or operator of the responsibility to comply with the control strategy and all local, State, and Federal regulations which are part of the applicable State Implementation Plan.

(f) Delegation of authority

(1) The Administrator shall have the authority to delegate responsibility for implementing the procedures for conducting source review pursuant to paragraphs (d) and (e), in accordance with subparagraphs (2), (3), and (4) of this paragraph.

(2) Where the Administrator delegates the responsibility for implementing the procedures for conducting source review pursuant to this section to any Agency, other than a regional office of the Environmental Protection Agency, the following provisions shall apply:

(i) Where the agency designated is not an air pollution control agency, such agency shall consult with the appropriate State and local air pollution control agency prior to making any determination required by paragraph (d) of this section. Similarly, where the agency designated does not have continuing responsibilities for managing land use, such agency shall consult with the appropriate State and local agency which is primarily responsible for managing land use prior to making any determination required by paragraph (d) of this section.

(ii) A copy of the notice pursuant to paragraph (e) (1) (ii) (c) of this section shall be sent to the Administrator through the appropriate regional office.

(3) In accordance with Executive Order 11752, the Administrator's authority for implementing the procedures for conducting source review pursuant to this section shall not be delegated, other than to a regional office of the Environmental Protection Agency, for new or modified sources which are owned or operated by the Federal government or for new or modified sources located on Federal lands; except that, with respect to the latter category, where new or modified sources are constructed or operated on Federal lands pursuant to leasing or other Federal agreements, the Federal land Manager may at his discretion, to the extent permissible under applicable statutes and regulations, require the lessee or permittee to be subject to a designated State or local agency's procedures developed pursuant to paragraphs (d) and (e) of this section.

(4) The Administrator's authority for implementing the procedures for conducting source review pursuant to this section shall not be redelegated, other than to a regional office of the Environmental Protection Agency, for new or modified sources which are located on Indian reservations except where the State has assumed jurisdiction over such land under other laws, in which case the Administrator may delegate his authority to the States in accordance with subparagraphs (2), (3), and (4) of this paragraph.

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